



# महाराष्ट्र शासन राजपत्र

## भाग एक-ल

वर्ष ६, अंक १९]

गुरुवार ते बुधवार, जुलै २४-३०, २०१४/श्रावण २-८, शके १९३६

[पृष्ठे ७९, किंमत : रुपये २३.००

### प्राधिकृत प्रकाशन

(केंद्रीय) औद्योगिक विवाद अधिनियम व मुंबई औद्योगिक संबंध अधिनियम यांखालील  
(भाग एक, चार-अ, चार-ब आणि चार-क यांमध्ये प्रसिद्ध केलेल्या अधिसूचना, आदेश व निवाडे यांव्यतिरिक्त)  
अधिसूचना, आदेश व निवाडे.

### BEFORE THE MEMBER INDUSTRIAL COURT, MAHARASHTRA AT KOLHAPUR

REVISION APPLICATION (ULP) No. 8/1995.—(1) The Depot Manager (A), M.S.R.T.C., Miraj Depot, (2) The Divisional Controller, M.S.R.T.C., Sangli.—*Petitioners—Versus—*Shri Vishwas Shahu Kenche, Behind New Water Tank, Shantinagar, Sangli.—*Respondent*.

CORAM.— Shri C. A. Jadhav, Member.

*Advocates*.— Shri A. N. Kulkarni, Law Officer for the Petitioners.

Shri K. D. Shinde, Advocate for the Respondent.

### Judgement

(Dated 18th December 2002)

This is a revision by original Respondent-M.S.R.T.C. challenging legality of Judgment and order passed in Complaint (ULP) No. 191 of 1989 by Labour Court, Sangli, whereby the Corporation is directed to reinstate its conductor without continuity of service and back wages.

2. Admittedly, present Respondent (hereinafter referred to as 'the Complainant') was in employment of present Petitioners (hereinafter referred to as 'the Road Transport Corporation') as a conductor. The Corporation served chargesheet dated 1st January 1988 upon him alleging misconducts under Clauses-10, 11, 22, 27 and 38 of its Discipline and Appeal Procedure mainly alleging unauthorised absence from 8th December 1987 to 31st December 1987 coupled with previous similar misconducts resulting into inconvenience to the Corporation and passengers. It was also alleged that he was absent for 94 days during January, 1987 to November, 1987. The Complainant denied the charges and then an enquiry took place. The enquiry officer held that all charges levelled against the Complainant are proved. Ultimately, the Complainant was dismissed from service on 13th October 1988. His first departmental appeal was dismissed on 7th April 1989 whereas, second on 13th June 1989.

3. Above complaint was filed on 11th August 1989 alleging unfair labour practice under Item 1(a), (b), (d), (e), (f) and (g) of Schedule-IV of the M.R.T.U. and P.U.L.P. Act, 1971, *inter alia*, contending that the Complainant filed Complaint (ULP) No. 101/1988 before Labour Court, Sangli on show cause notice of dismissal, obtained a stay therein and hence, the Corporation was annoyed. Eventually, the chargesheet was served upon him. In fact, he was suffering from infection and was unable to attend the duty. He submitted leave application alongwith medical certificates. Even then, the enquiry was conducted *ex-parte*. It is further alleged that he was seriously ill and hence, neither replied the chargesheet nor attended the enquiry. Even otherwise, charges in the enquiry are not proved beyond reasonable doubt. Only one witness was examined in the enquiry and there was no material before the enquiry officer regarding alleged damage to the Corporation. As such, findings of the enquiry officer are totally perverse. It is further contended that punishment is shockingly disproportionate.

4. On above the averments, the Complainant prayed for reinstatement with continuity of service and full back wages.

5. The Corporation filed its written statement at Exh. C-3 and traversed all material allegations made by the Complainant. It contended that the Complainant is in the habit of remaining absent. He was absent from 11th July 1987 to 22nd July 1988, then for 86 days from January, 1987 to July, 1987. Eventually, a show cause notice was issued to him where upon, he filed Complaint (ULP) No. 101/1988 before Labour Court, Sangli and obtained *ex-parte* stay to the show cause notice of dismissal. Even thereafter he was absent from 8th December 1987 to 31st December 1987 without getting the leave sanctioned. As such, he was served with a chargesheet. The Complainant then participated in the enquiry through the union representative. As such, the enquiry is fair and proper. The findings of the enquiry officer are also justifiable. Complainant's past record is full of misconducts. He was dismissed on 31st December 1976 for pilferage but was reappointed taking sympathetic view. Even then, there is no improvement on his part. As such, punishment of dismissal is legal and proper. Thus, the Corporation justified its action and prayed for dismissal of the complaint.

6. Considering rival pleading, learned Labour Court framed issues at Exh. O-2 and the parties went to the trial. None of the parties led oral evidence. The Corporation produced entire enquiry papers, dismissal order and Complainant's past record as well as default card.

7. Learned Labour Court, on perusal of documentary evidence and hearing both parties, held that the dismissal is colourable exercise of employer's rights, with undue haste and the punishment is shockingly disproportionate. It then allowed the complaint as above *vide* Judgment and Order dated 19th November 1994. The same is challenged in this revision.

8. I heard both sides. Considering rival submissions, following points arise for my determination :—

(i) Whether impugned finding that Complainant's dismissal for proved misconduct of unauthorised absence, is an unfair labour practice under Item 1(b), (f) and (g) of Schedule-IV of the M.R.T.U. and P.U.L.P. Act, is sustainable in law ?

(ii) What order ?

9. My findings on above points, are as under :—

(i) No.

(ii) The Revision Application is allowed.

## Reasons

10. It needs to be stated, at the outset, that learned Labour Court has held that the enquiry is not *ex-parte* and findings of the enquiry officer are legal and proper. The Complainant has not challenged such finding by way of counter-revision. Thus, now the same has become conclusive. Even otherwise, I find the same well justifiable as it is own case of the Complainant that he was suffering from infection.

11. Shri Kulkarni, learned Law Officer of the Corporation, vehemently argued that Complainant's past record was considered and then punishment of dismissal was imposed. There is no provision in the D. and A. Procedure of the Corporation that an opportunity has to be given to a delinquent employee. Even otherwise, a show cause notice dated 5th October 1988 was issued to the Complainant as to why he should not be dismissed for proved misconducts. The Complainant himself did not give any explanation and did not avail the opportunity. Consequently, he is estopped from contending that punishment is bad in law. He then took me through Complainant's default card and submitted that there are 41 misconducts to his credit, out of which 10 are in respect of unauthorised absence. Besides, he was terminated on 21st December 1976 for pilferage, was reappointed with a sympathetic view but did not improve. He further canvassed that principles analogous to provisions of section 11-A of the Industrial Dispute Act, 1947 are available while hearing the complaints under the M.R.T.U. and P.U.L.P. Act. For that end, he placed reliance on decision in *Mohan Naik V/s. National Textiles Corporation* reported in 1994 II CLR at page 643 (Bombay Division Bench). Finally, he submitted that it is a case of chronic absenteeism and no sympathetic view is warranted. He placed reliance on the decision in *M. D. Kawade V/s. Mahindra Engg. and Chemical Products Ltd.* reported in 2000 I CLR at page 545.

12. Shri K. D. Shinde, learned Advocate representing the Complainant, countered above arguments and replied that the absence is for *bonafide* reasons. Medical certificate was submitted and leave was prayed. The Complainant is ready to waive back wages, even till decision of this revision application if order of continuity and reinstatement is confirmed. He then submitted that an opportunity to improve needs to be extended to the Complainant and this is not a misconduct like fraud or misappropriation. Finally, he supported impugned decision.

13. Admittedly, none of the parties led oral evidence. Enquiry papers produced by the Corporation show that no leave application was filed by the Complainant alongwith medical certificate. Leave application on record is for the period 15th February 1988 to 29th April 1988. Medical certificate appended to the same shows that the Complainant was indoor patient from 8th April 1988 to 27th April 1988. Another medical certificate does not state regarding Complainant's treatment as indoor patient from 15th February 1988 to 7th April 1988. Thus, there is absolutely no evidence on record to show that the Complainant was ill. It is vaguely contended in the complaint that he was suffering from infection. As such, there is no explanation whatsoever for absence during 8th December 1987 to 31st December 1987 for which he is charges-sheeted. Complainant's past record is full of misconducts. He was unauthorisedly absent for ten times. He was dismissed on 21st December 1976 for pilferage, was reappointed with a sympathetic view but has not improved. Thus, it is a clear case of chronic absenteeism.

14. It is observed in *M.S.R.T.C. Jalgaon V/s. Sharafat Ali* reported in 1999 I CLR at page 887 (Bombay High Court) that if an employee does not improve, despite opportunity is given, then merely by showing mercy it would result into multiplying misconduct and hence, punishment of dismissal for misconduct of absenteeism is proper. Decision of Bombay High Court in *Divisional Controller, M.S.R.T.C., Chandrapur V/s. Giridhar Derkar* reported in 1995(4)

BCR at page 646 is referred in Sharafat Ali's decision. It is held that the workman cannot be permitted to keep on indulging into misconducts time and again and despite having been shown mercy, warning and modest punishment previously in the name of repeated mercy and reformation. The Complainant was unauthorisedly absent for 94 days during January, 1987 to November, 1987. Thus, his previous record is well indicative of habitual absenteeism. In such circumstances, I find that learned Labour Court has totally erred in extending misplaced sympathy to the Complainant. In the light of observations in above decisions of Bombay High Court it is apparent error on the face of record. It cannot be accepted that the punishment is colourable exercise of employer's right, with undue haste and shockingly disproportionate. I can appreciate marginal unauthorised absenteeism on account of reasons beyond one's control. In this case, the misconduct is not marginal but coupled with repeated one. There is no plausible explanation for the same. In the circumstances, I find that the Corporation was well justified in imposing the punishment of dismissal and it is not an unfair labour practice. Accordingly, I answer point No. 1 in the negative and pass the following order :—

### Order

- (i) The Revision Application is allowed.
- (ii) Impugned decision directing reinstatement with continuity of service but without back wages, is set aside.
- (iii) The complaint is dismissed.
- (iv) The parties to bear their own costs.

Kolhapur,  
Dated the 18th December 2002.

C. A. JADHAV,  
Member,  
Industrial Court, Kolhapur.

V. D. PARDESHI,  
Asstt. Registrar,  
Industrial Court, Kolhapur.

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**BEFORE THE INDUSTRIAL COURT, MAHARASHTRA AT KOLHAPUR**

CRIMINAL REVISION APPLICATION (ULP) No. 6 OF 1997.—Shri Moreshwar Trimbak Harischandrakara, Block No. 6, IInd Floor, Sumodh Apartment, Opp. Narsingha Mandir, Killa, Miraj, District Sangli.—*Petitioner—Versus—*(1) Shri G. V. Kulkarni, Principal, Dairy Science Institution, Aarey Colony, Mumbai 400 065.—*Opponent No. 1*, (2) Shri P. N. Petkar, District Dairy Department Officer, Parle Square, Near Salvi Stop, Shivajinagar, Ratnagiri.—*Opponent No. 2*.

In the matter of Revision u/s. 44 of the M.R.T.U. and P.U.L.P. Act, 1971.

CORAM.— Shri C. A. Jadhav, Member.

*Advocates.*— Shri A. T. Upadhye, Advocate for the Petitioner.

Shri D. J. Mangsule, Assistant Government Pleader for Opponents.

**Judgement**

This is a Revision by original Complainant challenging legality of order passed below Exh. U-1 in Criminal Complaint (ULP) No. 24/1991, whereby the complaint is dismissed for default.

2. Admittedly, present Petitioner (hereinafter referred to as the Complainant) was in employment of Dairy Development Department of Government of Maharashtra. He was serving under Government Milk Scheme at Miraj in the year 1991. He was transferred from Miraj to Phaltan, District Satara. He then filed Complaint (ULP) No. 151/91 before this Court, wherein as interim relief, his transfer order was stayed until further orders, with show cause notice. It was then confirmed. The complaint was filed against the Regional Dairy Development Officer, Pune and General Manager, Government Milk Scheme, Miraj (present Respondents 1 and 2). The interim relief was confirmed on 16th June 1992 after hearing both sides.

3. The Complainant filed Criminal Complaint (ULP) No. 24/91 before Labour Court, Sangli alleging non-compliance of *ex-parte* interim order dated 24th June 1991 before Labour Court, Sangli against present Respondent (hereinafter referred to as the Accused Nos. 1 and 2). Learned Labour Court on recording statement of the Complainant on oath, passed an order of issuing process against Accused Nos. 1 and 2.

4. Accused Nos. 1 and 2 filed Criminal Revision Application (ULP) No. 8/91 in this Court challenging Labour Court's order, of issuing process against them. My learned Predecessor, they stayed order of issuing process, until further orders. Thereafter, said Criminal Revision Application was dismissed for default on 24th September 1996. Eventually, learned Labour Court posted the Criminal Complaint (ULP) No. 24/91 for hearing on 30th November 1996. Notices, thereof were sent to the Complainant and Accused Nos. 1 and 2 therein.

5. The Complainant was absent on 30th November 1996 and hence main complaint was posted for orders on 7th December 1996. The Complainant was absent on 7th December 1996 and hence learned Labour Court dismissed the complaint for default. Said order is challenged in this Revision.

6. I heard both sides. Considering rival submissions, following points, arise for my determination :—

(i) Whether Revisional interference under section 44 of the M.R.T.U. and P.U.L.P. Act is necessary ?

(ii) What order ?

7. My findings, on above points, are as under :—

(i) Yes.

(ii) The Revision Application is allowed.

### Reasons

8. I must state at the outset that Accused No. 1 namely G. V. Kulkarni is now dead. The Petitioner Complainant has filed a pursis (Exh. U-18) in this Revision Application that name of Accused No. 1 be deleted.

9. Shri Upadhye, learned Advocate representing the Complainant argued that Accused Nos. 1 and 2 were totally negligent. The Labour Court passed an order below Exh. U-5 on 1st October, 1991 in original Complaint directing Accused Nos. 1 and 2 to pay wages to the Complainant as the Complainant was not allow to join duties despite his transfer order was stayed. On the contrary, they preferred Criminal Revision Application (ULP) No. 8 of 1991 and obtained stay to the order of issuing process. The Complainant was required to contest said Revision Application for 5 years which ultimately came to be dismissed for default on 24th September 1996. Thus, the Complainant was totally diligent about his rights.

10. Shri Upadhye, then explained that 30th November 1996 was the first date of appearance of both parties before the Labour Court, Sangli. The Complainant was to undergo angeography test at Pune, was unable to attend Sangli on 30th November 1996 and accordingly informed Accused No. 2 by letter dated 22nd November 1996. Copy of said letter with endorsement produced on record. The Complainant stated in this letter that his inability to attend the Court may kindly be informed to his Advocate Shri Kulkarni. The Complainant was indoor patient from 25th November 1996 to 7th January 1997. He was operated for Angeoplastic Surgery on 3rd January 1997 and thus, it was absolutely impossible for him to attend Sangli Court on 30th November 1996 and 7th December 1996. Besides, none of the accused were present on both these dates. Notice sent by Court to Accused No. 2 has returned un-served. In such circumstances, learned Labour Court ought to have adjourned the matter. Approach of dismissing the complaint for default, in such peculiar circumstances, is mechanical one and contrary to the very aims and objects of the M.R.T.U. and P.U.L.P. Act. Let there be a fair trial and the controversy can be decided on merits. Finally, he submitted that Revisional interference is warranted.

11. Learned Assistant Government Pleader representing Accused No. 3 replied that the Complainant ought to have informed his Advocate. Complainant's absence was marked on 30th November 1996 and the matter was posted for orders to 7th December 1996. The Complainant was also absent on 7th December 1996 and hence the Labour Court had no alternate than to dismiss the complaint for default. Thus, impugned order cannot be faulted.

12. The very purpose of the M.R.T.U. and P.U.L.P. Act is to provide for prevention of unfair labour practice and to constitute independent machinery to carry out the purpose of the Act. It appears that the Complainant informed by letter dated 12th November 1996 to General Manager of Government Milk Scheme, Miraj that he has to undergo Angeoplastic test and may be required to undergo an operation. Thus, it cannot be accepted that he was negligent in attending the Court. Besides, it appears from the '*Roznama*' dated 30th November 1996 and 7th December 1996 that none of the Accused were present but some person from their office was present. In such circumstances, I find that mechanical approach of the Labour Court was unjustifiable. No doubt, the Complainant was absent on both dates for good and sufficient reasons. The record and proceeding show that notice of hearing was not served upon Accused No. 2. Thus, it was unnecessary to dismiss the complaint for default. It is always better to decide the controversy on merits to meet the ends of justice. I, therefore, hold that revisional interference under section 44 of the M.R.T.U. and P.U.L.P. Act is warranted by setting aside impugned order. Accordingly, I answer Point No. 1 in the affirmative.

13. It has come on record that Accused No. 1 has expired pending the Revision Application. As per section 40 of the M.R.T.U. and P.U.L.P. Act, the Labour Court has all the powers under the Code of Criminal Procedure in respect of offences punishable under said Act. As such, the Labour Court is directed to take congizance of death of Accused No. 1 and pass proper order in that contest.

14. Finally, I pass following order :—

**Order**

(i) The Revision Application is allowed.

(ii) Impugned order dismissing Criminal Complaint (ULP) No. 24/91 is set aside and original complaint stands restored.

(iii) R. and P. be sent to Labour Court, Sangli. The Complainant and Accused No. 2 shall appear thereon 18th January 2003. The Labour Court is directed to extend reasonable opportunity to both parties and decide the complaint, as expeditiously as possible.

(iv) No order as to costs.

Kolhapur,  
Dated the 30th December 2002.

C. A. JADHAV,  
Member,  
Industrial Court, Kolhapur.

V. D. PARDESHI,  
Asstt. Registrar,  
Industrial Court, Kolhapur.

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**BEFORE THE INDUSTRIAL COURT, MAHARASHTRA AT KOLHAPUR**

REVISION APPLICATION (ULP) No. 34 OF 2002.—Chief Executive Officer, Zilla Parishad, Kolhapur.—*Petitioner—Versus—*Shri Shantraram Ganpati Patil, At : Morewadi, Post : Bhatiwade, Tal. Bhudargad, District : Kolhapur.—*Respondent*.

In the matter of : Revision application under Sec. 44 of the M. R. T. U. and P. U. L. P. Act, 1971.

CORAM.— Shri C. A. Jadhav, Member.

*Advocates.*— Shri A. T. Upadhye, Advocate for the Petitioner.

Shri R. L. Chavan, Advocate for the Respondent.

**Judgement**

This is a revision by original Respondent-Zilla Parishad, Kolhapur challenging legality of order passed below Exh. U-18 in Complaint (ULP) No. 91/1994 by Labour Court, Kolhapur, whereby an application for amendment of main complaint is allowed.

2. Admittedly, present Respondent (hereinafter referred to as 'the Complainant') was in employment of present Petitioners (hereinafter referred to as 'the Zilla Parishad') as a driver. He was terminated by the Zilla Parishad by order dated 28th October 1991. He then filed Complaint (ULP) No. 293 of 1991 before Labour Court, Kolhapur, it was allowed and then the Zilla Parishad reinstated him in employment by order dated 21st September 1992. It has also come on record that the Zilla Parishad then served notice dated 15th January 1994 upon the Complainant alleging that he made false statement that he is relative of Freedom Fighter. The Complainant then gave an explanation. The Zilla Parishad did not find the same satisfactory and then terminated him with effect from 28th April 1994.

3. The Complainant then filed above complaint challenging his termination, *inter alia*, contending that he did not commit any misconduct during the cause of employment and alleged misconduct was nowhere connected with his employment. There is no provision under Service Rules of Zilla Parishad to impose punishment regarding misconducts allegedly committed prior to entering into service. Besides, no proper opportunity of being heard was extended to him before terminating him and copy of Enquiry Officer's Report was not delivered to him. Finally, he prayed for declaration of unfair labour practice, direction to reinstatement him with continuity of service and full back wages as well as other consequential reliefs. I must state at this stage itself that he filed the complaint alleging his termination to be an unfair labour practice, under Items 9 and 10 of Schedule-IV of the M.R.T.U. and P.U.L.P. Act.

4. The Zilla Parishad filed its written statement at Exh. C-13, contending that complaint of unfair labour practice under Items 9 and 10 of Schedule-IV of the M.R.T.U. and P.U.L.P. Act is not maintainable fore the Labour Court. It then contended that the Complainant failed to establish that he is relative of a freedom fighter and therefore was required to be terminated. Thus, the Zilla Parishad justified its action and prayed for dismissal of the complaint.

5. The Complainant then filed an application (Exh. U-18) for amendment of main complaint contending that respective items of unfair labour practice are wrongly mentioned as Items 9 and 10 and though ought to be item 1(a), (b), (d) and (g) of Schedule-IV of the M.R.T.U. and P.U.L.P. Act. Besides, facts regarding decision of Regular Civil Suit No. 64 of 1999 by Civil Court, Kolhapur are prayed to be incorporated in the complaint by way of proposed amendment.



6. The Zilla Parishad objected the application *vide* Reply Exh. C-20 contending that proposed amendment changes entire nature of the complaint and cannot be allowed. Now, the Complainant is trying to bring his complaint under Items 1(a), (b), (d) and (f) of Schedule-IV of the M.R.T.U. and P.U.L.P. Act, which is impermissible in law.

7. Learned Labour Court, on perusal of rival pleadings, documents produced on record and hearing both parties, observed that proposed amendment does not change the nature of the complaint. Original prayer is for reinstatement with continuity of service with full back wages. As such, the Zilla Parishad will not be prejudiced if the amendment is allowed and the Zilla Parishad can well file additional written statement, if any, Ultimately, if allowed the application (Exh U-18) for amendment by order dated 21st October 2001. The same is challenged in this Revision.

8. I heard both parties. Considering rival contentions, following points arise for my determination :—

(i) Whether impugned order allowing the application Exh. U-18 for amendment of the complaint, is justifiable ?

(ii) What order ?

9. My findings, on above points, are as under :—

(i) Yes.

(ii) The Revision Application is dismissed.

### Reasons

10. This being a Revision under section 44 of the M.R.T.U. and P.U.L.P. Act, 1971, it is not necessary to scrutinise rival pleadings, meticulously. The only material question is as to whether documents on record are incapable of supporting impugned order. In other words, whether impugned order is perverse or justifiable.

11. Shri Upadhye, learned Advocate representing the Zilla Parishad vehemently argued that proposed amendment changes entire nature of the complaint. Original complaint is filed under Items 9 and 10 of Schedule-IV of the M.R.T.U. and P.U.L.P. Act now it is tried to be brought under items 1(a), (b), (d) and (f) of Schedule-IV of the M.R.T.U. and P.U.L.P. Act. The Complainant can withdraw present complaint and file fresh one. As such, impugned order is unsustainable in law.

12. Shri Chavan, learned Advocate representing the Complainant replied that proposed amendment does not change nature of the complaint. Later events *i.e.* decision in Civil Court, Kolhapur has to be brought on record. Original prayer was for reinstatement with continuity of service and full back wages and thus, the complaint was in fact under item 1 of Schedule-IV of the M.R.T.U. and P.U.L.P. Act. Items 9 and 10 of Schedule-IV of the M.R.T.U. and P.U.L.P. Act were inadvertantly pleaded and those are now corrected by way of proposed amendment. Finally, he supported impugned order.

13. I must state that, that the Complainant has prayed for declaration of requisites unfair labour practice reinstatement with continuity of service and full back wages, while filing the complaint itself. Various averments in the original complaint were materially under item 1 of Schedule-IV of the M.R.T.U. and P.U.L.P. Act. Now, the same is tried to be corrected. As such, it does not change nature of the complaint. On the contrary, the mistake is tried to be corrected.

14. As regards decision of Civil Court, Kolhapur, later events need to be brought on record. Advocate Shri Upadhye explained that the Zilla Parishad was not a party to the said suit and decision therein is not binding on the Zilla Parishad. In my judgment, it can well canvassed such proposition while deciding the complaint finally, and any comments on such plea are premature, at this stage.

15. In the background of above discussion and circumstances, I find that proposed amendment does not change nature of the complaint. Withdrawing a complaint and filing fresh one will be simply a paper exercise. As such, learned Labour Court has rightly allowed the amendment. There is no perversity of arbitrariness in impugned order. On the contrary, there is every substance in its reasoning, and it is well justifiable. Accordingly, I answer Point No. 1 in the affirmative and pass following order.

### **Order**

(i) The Revision Application is dismissed.

(ii) R. and P. be sent to Labour Court, Kolhapur and parties shall appear there on 20th January 2003.

(iii) The parties shall bear their own costs.

Kolhapur,

Dated the 4th January 2003.

C. A. JADHAV,

Member,

Industrial Court, Kolhapur.

V. D. PARDESHI,

Asstt. Registrar,

Industrial Court, Kolhapur.

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**BEFORE THE INDUSTRIAL COURT, MAHARASHTRA AT KOLHAPUR**

COMPLAINT (ULP) No. 327/1994.—Shri Pratap Satappa Kamat, 1-A, Arvind Apartment, Tarabai Park, Kolhapur.—*Complainant—Versus—*(1) The Superintending Agricultural Officer, Kolhapur Division, Line Bazaar, Kolhapur.—*Respondent No. 1.* (2) The Divisional Joint Director of Agricultural (Extn), Kolhapur Division, Kolhapur.—*Respondent No. 2.*

In the matter of complaint u/s. 28(1) read with items 5, 9 and 10 of Schedule-IV of the M. R. T. U. and P. U. L. P. Act, 1971.

CORAM.— C. A. Jadhav, Member.

*Advocates.*— Shri P. S. Kamat, Advocate in person for Complainant.

Shri S. R. Pisal, Assistant Government Pleader for Respondents.

***Judgement***

This is a complaint purported to be under Sec. 28(1) read with Items 5, 9 and 10 of Schedule-IV of the M.R.T.U. and P.U.L.P. Act, 1971.

2. Admittedly, the Superintending Agricultural Officer, Kolhapur Division-Respondent No. 1 selected the Complainant for deputation for training at Bangalore in the capacity as a Junior Soil Surveyer. Superintending Engineer, Poona Irrigation Circle, Poona then appointed the Complainant as Soil Surveyer in the Rural Engineering Survey Division, Satara by order dated 30th August 1972. It is stated in the order that he is appointed on temporary establishment and is liable to be terminated with one month's notice. The Complainant joined the training on 10th July 1972 and then started working under Rural Engineering Survey Division, Satara.

3. It is also an admitted position that the Complainant, while in service, officially appeared for the examination held by Maharashtra Public Service Commission for Maharashtra Agricultural Services-Class-II and then was selected. He was then relieved on 8th January 1979 of his previous post and then joined on 9th November 1979 on the post of Sub-Divisional Soil Conservative Officer. He was appointed on Class-II Post as a probationer. He was then removed from service due to unsatisfactory work, *vide* Government Order dated 6th October, 1983. However, said order was stayed by the Government and he continued in employment. Ultimately, the Government vacated the stay and he was removed from service with effect from 14th October 1985. Thus, he was in employment from 10th July 1972 to 14th October 1985.

4. This complaint was filed on 25th August 1974 against Respondent No. 1 only, *inter alia*, contending that the Complainant is an 'employee' as defined under the M.R.T.U. and P.U.L.P. Act and Respondent No. 1 is an 'industry' as defined under the Industrial Dispute Act. His previous appointment order was on Class-III post and later selection was for Class-II services, he was simply relieved of previous post on 8th November 1979, never resigned, nor his services were terminated from such post. He challenged termination/removal order dated 6th October 1983 before Hon'ble High Court, *vide* Writ Petition No. 295/1986, which came to be transferred to Maharashtra Administrative Tribunal and was numbered as Application No. 1709/91. It was dismissed holding that termination/removal order is a termination simpliciter, not by way of any penalty and without any stigma or civil consequences. It is alleged by the Complainant that 24 persons were selected and appointed alongwith him in July, 1972. All of them are treated as permanent employees, as per Government Resolution dated 19th September 1975. As such, he had lien on the post of Soil Surveyer (Class-III). He was selected for the higher post in the same Department and appointed on probation. He never resigned from the previous post but

retained as lien on said post. It is alleged that the very fact of allowing him to cross-efficiency bar in the previous post with effect from 10th June 1976, *vide* order dated 2nd June 1981, implies that he was in continuous service without any break. Impression of Respondent No. 1 that his removal debars him from claiming employment in previous post (Class-III) is a misconception. According to him therefore, his simple removal from Class-II post presumes continuation of previous Class-III post. Respondent No. 1 has not passed any order that he is terminated from previous Class-III post.

5. It is further case of the Complainant that he requested Respondent No. 2 by letter dated 11th August 1992 to pay arrears of his pay and allowances but no action was taken. Respondent No. 2 then gave a reply dated 17th January 1993 that he is removed from services and is not entitled to any relief. He (Complainant) then issued notice dated 4th January 1994 to Respondent No. 1 that he is in employment from 16th October 1985 and his voluntary retirement from April, 1994 be permitted. However, none of the Respondents complied the same and such failure is an unfair labour practice under Items 9 and 10 of Schedule-IV of the M.R.T.U. and P.U.L.P. Act.

6. It is further alleged by the Complainant that his case is identical with one Shri Khedekar who was appointed as Sub-Divisional Officer, then terminated for unsatisfactory work during his probation period but was granted benefits of his previous Class-III post. Thus, the Respondents have shown favouritism or partiality to one set of workers regardless of merits, which is an unfair labour practice under items 5 of Schedule-IV of the M.R.T.U. and P.U.L.P. Act. It is further alleged that the cause of action is recurring one and the question of limitation, does not arise. Divisional Joint Director of Agricultural, Kolhapur Division, Kolhapur (Respondent No. 2) was arrayed as a party on 14th March, 1995.

7. On above averments, the Complainant prayed for requisite declaration of unfair labour practice, directions to pay wages alongwith increments thereof from 15th October, 1985 onwards and to grant all statutory service-benefits.

8. The Complainant also made an interim application (Exh. U-2) under Sec. 30(2) of the M.R.T.U. and P.U.L.P. Act to direct the Respondents to grant pensionary benefits to him and not to issue any illegal orders regarding his statutory claims, till decision of main complaint.

9. Administrative Officer of Respondent No. 2 filed say *cum* written statement on behalf of Respondent Nos. 1 and 2. He contended at the outset that now the Complainant is not an employee of the Respondents and hence cannot resort to provisions of the M.R.T.U. and P.U.L.P. Act. Besides, Respondents 1 and 2 is not an 'industry' as defined under the Industrial Dispute Act.

10. It is case of the Respondents that Complainants work between the year 1972 to 1979, was unsatisfactory and was remarked as an average and slack worker for the year 1974-75. The Complainant was selected for Maharashtra Agricultural Services-Class-II and, therefore, it was not necessary to terminate his services or to insist for a resignation of previous Class-III post. Rule 20 of the Maharashtra Civil Services (General Conditions of Service) Rules, 1981 is self explanatory. It provides that a Government Servant on substantive appointment to any permanent post acquires a lien on that post and ceases to held any lien previously acquired on any other post. Besides, the Complainant was initially appointed on temporary basis and is not entitled to have lien on Class-III post.

11. It is further case of the Respondents that Rule 66 of the Maharashtra Civil Service (Joining Time, Foreign services.....Removal) Rules 1981 says that pay and allowances of the Government servant who is dismissed or removed from service ceases from the date of such dismissal or removal. As such, the Complainant is not entitled to any benefits. In fact, the Complainant cannot claim any benefits on the principle 'no work no pay'. Besides, voluntary retirement can be taken on completing 20 years of qualified service. The Complainant was removed from service in the year 1985 and claimed for voluntary retirement in the year 1982. As such, his representation was rightly rejected.

12. As regards, Government circular dated 19th September 1975, benefits thereof were extended in the year 1990 *i. e.* when the Complainant was not in employment. The Complainant did not pass departmental examination but departmental enquiry was started against him on the charge of misappropriation of Government money. Complainant's representation dated 2nd September 1991 was rightly replied. Besides, mere allowance to cross efficiency bar is not a conclusive test to hold that he was continued in service.

13. As regards case of Shri Khedekar, it is contended that is quite different from the Complainant, Shri Khedekar was reverted in the year 1971 from Higher post to lower post to due to unsatisfactory probation period. Reversion order was challenged in the Court and was set aside. Eventually, Shri Khedekar continued in employment.

14. On above pleadings, Respondents 1 and 2 justified their action and finally prayed for dismissal of interim application as well as the complaint.

15. Considering rival pleadings, following issues arise for my determination :—

(i) Does the Complainant prove that he had a lien on the post of Soil Surveyor (Class-III) while joining post of Sub-Divisional Soil Conservative Officer (Class-II) ?

(ii) Does he further prove that Respondents 1 and 2 have shown a favouritism or partiality to Shri Khedekar, regardless of merits by continuing him in employment ?

(iii) Does he further prove that he is deemed to be in service on the post of Soil Surveyor (Class-III) from 14th October 1985 *i. e.* after removal from Class-II post ?

(iv) Does he further prove that refusal of Respondents 1 and 2 to extend benefits of voluntary retirement presuming him to be in employment till notice dated 4th November 1994, is contrary to service conditions and an unfair labour practice under Item 9 of Schedule-IV of the M.R.T.U. and P.U.L.P. Act ?

(v) What order ?

16. My findings, on above points, are as under :—

(i) No.

(ii) No.

(iii) No.

(iv) No.

(v) The complaint is dismissed.

### Reasons

17. The Complainant produced copies of his previous as well as later appointment orders, his service-book, Government Resolution dated 19th September 1975, Judgment of Maharashtra Administrative Tribunal, his representations and reply of Respondent No. 1 dated 17th January 1993, with list Exh. U-5. He then filed his Affidavit (Exh. U-11) in lieu of Examination-in-chief. He was cross-examined on behalf the Respondents. The Respondents neither produced documentary evidence nor led any oral evidence. The Complainant preferred to file written arguments (Exh. U-9) as well as made oral submissions.

18. I must state at this stage itself that now, the Complainant is an Advocate.

19. It has come on the record that, pending the complaint, the Complainant challenged Maharashtra Administrative Tribunals order before Hon'ble Apex Court *vide* Special Leave Petition No. 46/95, which was dismissed. Its Review Petition No. 1795/96 was also dismissed.

20. Although, it is pleaded by Respondents that they are not as 'industry' as defined under the Industrial Dispute Act and the Complainant is not an 'employee' as defined under the M.R.T.U. and P.U.L.P. Act, no serious arguments were advanced on this plea by learned Assistant Government Pleader Shri Pisal. No duty-list of Soil Surveyer is produced on record. Considering Complainant's appointment on Class-III post, it is difficult to accept that he was mainly performing managerial or supervisory duties. I therefore, find that he is entitled to resort to provisions of the M.R.T.U. and P.U.L.P. Act.

21. It is submitted by the Complainant that, while joining new post (Class-II), he was simply relieved by Respondents and he never resigned. Order removing him from Class-II post is not a stigma and, therefore, it will not amount to automatic termination/removal or dismissal of his employment in Class-III post. As such he had lien on initial Class-III Post on which he was permanently appointed. His mere selection and appointment on Class-II post on probation does not extinguish his lien on previous Class-II post. Line on Class-III post would have ceased if he would have been permanently appointed on Class-II post after probation. As such, he continues to be in employment of Class-III post and is entitled to all benefits thereof from 14th October, 1985 onwards.

22. Learned Assistant Government Pleader Shri Pisal replied that Rule 20 of the Maharashtra Civil Services (Joining Conditions of Service) Rules is very clear. Ceasing of lien on previous post on appointment to any permanent post is the rule unless it is provided otherwise. There is nothing on record to show that the Complainant was informed while relieving from Class-III post that he has line on such post. Thus cession of lien is a rule and retention of lien on previous post is an exception. Besides, Complainant's removal may not be a punishment under Maharashtra Civil Services (Discipline and Appeal) rules, however, his removal leads to cessation of his pay and allowance as per the Rule 66 of the Maharashtra Civil Services (Joining time ..... Foreign Services.....Removal) Rules. Therefore, the Complainant had no lien on Class-III post nor is in its employment after removal from Class-II post. Eventually, he has not completed 20 years of qualifying service for getting pension on the ground of voluntary retirement.

23. I perused decision of Maharashtra Administrative Tribunal. It is observed that Complainant's removal order is termination simpliciter, not by way of any penalty and not with any stigma or civil consequences. Rule 5 of Maharashtra Civil Services (Discipline and Appeal) Rules provide for penalty. Explanation (VIII) (a) thereof says that termination of a services of Government servant appointed on probation shall not amount to penalty within the meaning of said Rule. Thus, I have no difficulty to hold that Complainant's removal is not penal one.

24. Rule 20 of the Maharashtra Civil Services (joining conditions of services) Rules plays a material role in this case. It is better to reproduce the same.

20. *Acquiring and ceasing of a lien.—*

“Unless in any case it be otherwise provided in these rules, a Government servant on substantive appointment to any permanent post acquires a lien on that post and ceases to hold any lien previously acquired on any other post.”

25. It is no-body's case, nor it can be that the Complainant was appointed on a temporary post of Class-II category. I must state that if the Complainant could have completed probationary period satisfactory then he ought to have been continued on said post. Thus, it has to be accepted that the Complainant was appointed on a permanent post. The Complainant is much capitalizing that he was simply relieved from the previous post. However, above Rule 20 is very clear. In my Judgment, Assistant Government Pleader Shri Pisal has rightly argued that ceasing of a lien on a previous post is a rule and retention is an exception. There is nothing on record to show that the Complainant reserved his lien on Class-III post while joining Class-II post. In my Judgment, therefore, it cannot be accepted that the Complainant had lien on the post of Soil Surveyor (Class-III) while joining Class-II post. Accordingly, I answer Point No. 1 in the negative.

26. It is tried to be canvassed by the Complainant that Government Resolution dated 19th September, 1975 and permitting him to cross efficiency bar in the year 1981 establishes that he had lien. In my Judgment, the resolution and permission to cross efficiency bar has no relevance in view of specific provision under Rule 20 of Civil Services (General Conditions of services) Rules. Proposition that Complainant continuation after satisfactory completion of probation period on Class-II post will amount to acquisition of lien on Class II post and ceases to hold lien on Class III post, is well acceptable. In my Judgment, the Complainant was appointed on permanent post while joining Class II services. Naturally he lost lien on his previous post (Class III). It is settled law that a relief which cannot be claimed directly cannot be claimed indirectly. As such, the Government resolution and permission to cross efficiency bar does not mean that the Complainant had lien on previous (Class III) post.

27. The Complainant has relied upon 24 decisions of Hon'ble Apex Court and other High Courts and Hon'ble Tribunals. It is not necessary to refer and discuss each of the decision so as to curtail unnecessary length of this Judgment.

28. I am respectfully bound by all those decisions therein. None of the decision is under Rule 20 which is backbone of this case.

29. It is also interesting to note that the Complainant after removal from Class II post, in October, 1985, has not immediately approached for his alleged continuation in previous Class III post. There is no plausible explanation for the same. It appears that he decided to approach Hon'ble High Court and Hon'ble Apex Court for challenging his removal from Class II post. The Complainant relied on various other rules of other service conditions. In my Judgment, reference thereof is unnecessary as above referred Rule 20 decides the basic controversy of lien on previous post (Class-III) after joining new permanent post (Class II). Consequently, it cannot be accepted that the Complainant was deemed to be in employment of Class III post after removal from Class II post. Accordingly, I answer Point No. 3 in the negative.

30. It is further case of the Complainant that the Respondents have shown favouritism to one Shri Khedekar, although he (Shri Khedekar) was terminated for unsatisfactory work during probation period. According to the Respondents Shri Khedekar was not terminated, but was reverted, challenged said order in a Court, wherein order of reversion was set aside and thus, he continued in employment.

31. I must state that none of the parties have produced relevant documents of case of Shri Khedekar. Consequently, no observations can be made by conjunctures and surmises. The Complainant has alleged unfair labour practice under item 5 of Schedule-IV of the M.R.T.U. and P.U.L.P. Act. Eventually, burden lies upon him to prove such unfair labour practice. No evidence is produced regarding case of Shri Khedekar. Eventually, I have no alternate than to hold that no unfair labour practice under item 5 is proved. Accordingly, I answer Point No. 2 in the negative.

32. In the background of above discussions and findings, I hold that the Respondents have rightly refused to extend benefits of alleged voluntary retirement to the Complainant. Accordingly, I answer Point No. 4 in the negative and pass following order. :—

**Order**

(i) The complaint is dismissed.

(ii) No order as to costs.

Kolhapur,

Dated the 16th January 2003.

C. A. JADHAV,

Member,

Industrial Court, Kolhapur.

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## IN THE INDUSTRIAL COURT AT MUMBAI

REVISION APPLICATION (ULP) No. 8 OF 2002 IN COMPLAINT (ULP) No. 83 of 1998.—  
(1) Mr. A. H. Shirdhankar, Shah Sadan, Room No. 9, Ganesh Path Lane, N. C. Kelkar Road, Dadar, Mumbai 400 028. (2) Mr. R. R. Lad, 23 Darshan Society, New MHB Colony, Gorai Road, Borivali West, Mumbai 400 092. (3) Mr. A. G. More, Apartment Sanna, Anand, Koliwada, Mumbra, Dist. Thane.—*Applicants—Versus—* (1) M/s. Muller and Phipps (India) Limited, Queens Mansion, A. K. Naik Marg, Fort, Mumbai 400 001. (2) Managing Director, M/s. Muller and Phipps (India) Limited, Fort, Mumbai 400 001. (3) Personnel Manager, M/s. Muller and Phipps (India) Limited, Fort, Mumbai 400 001.—*Opponents.*

In the matter of Revision application under Sec. 44 of the M. R. T. U. and P.U. L. P. Act against the Order dated 30th November, 2001 passed by the Labour Court, Mumbai, in Complaint (ULP) No. 83 of 1998.

PRESENT.— Shri M. L. Harpale, Member. Industrial Court, Mumbai.

*Appearances.*— Mr. S. A. Sawant, Advocate for the Applicants.

Mr. Sunil Shroff, Advocate for the Opponents.

### *Judgement and Final Order*

1. This revision application filed by the Applicants against the final order dated 30th November 2001 passed by the Labour Court, Mumbai, in Complaint (ULP) No. 83 of 1998.

2. The Applicants were the Complainants, in the above complaint filed against the present Opponents for unfair labour practices under Sec. 28 read with item 1(a), (b), (d) and (f) of Schedule-IV of the M.R.T.U. and P.U.L.P. Act. (Hereinafter the Applicants are referred to as the Complainants and the Opponent No. 1 is referred to as the Respondent Company and all the Respondents are referred to as the Respondents.)

3. The Complainants employees approached the Labour Court with the following facts :—

They were in the employment of the Respondent Company and they worked therein for more than 11 years. Their last drawn salary was Rs. 2,500 per month. They have further contended that they were served with the letters of termination of their services dated 6th February 1998 under the guise of retrenchment with immediate effect. The reasons shown therein are false and baseless. This act on the part of the Respondents amounts to undue haste and it shows the *malafide* intention on the part of the Respondents. It is done with a view to victimise them on the reason of their trade union activities. It amounts to unfair labour practices on the part of the Respondents under items 1(a), (b), (d) and (f) of Schedule-IV of the M.R.T.U. and P.U.L.P. Act. They have further contended that the list of seniority displayed by the Respondent company was not in accordance with the provisions of the Rules under the Industrial Disputes (Bombay) Rules. It is an incomplete list. The Respondents have also not complied with the provisions of Sec. 25-N of the Industrial Disputes Act. The Respondent company employs more than 250 employees in its establishment at Mumbai and at the branch offices in other cities. There is functional and financial integrality between the registered office at Mumbai and the branch offices. Therefore, it was necessary to comply with the provisions under Sec. 25-N of the Industrial Disputes Act. They have further contended that after their illegal termination, the Respondents compelled 3 workmen at the factory at Andheri to work in the head office. Besides the same, three security personnel in the factory at Andheri are working in the head office. Thus, the strength in the head office remained the same. Therefore, the reason of surplus employees given for retrenching them is false. They have further contended that their retrenchment amounts to change, but no notice of change was given as required under Sec. 9-A of the Industrial Disputes Act. Thus, the Respondents have illegally terminated their services without following due process of law. Lastly, they have prayed for their reinstatement in service with full back wages and continuity of service with effect from the date of their retrenchment.

4. On appearance, the Respondents filed their reply Exh. C-2 to the interim relief application. Thereafter, they filed their written statement at Exh. C-6 and also adopted the reply Exh. C-2 as their written statement. By the said written statement and the reply, they resisted the claim of the present Complainants.

5. The trial Judge framed the issues, recorded the evidence of the witnesses produced by both the sides and on considering the said evidence and the arguments advanced by the learned Advocates for both parties, he was pleased to dismiss the said complaint by his judgment and final order dated 30th November 2001.

6. Being aggrieved by the said judgment and final order dated 30th November 2001, the Complainants have preferred this revision application on the grounds as given in their revision memo.

7. Both the parties have filed their written arguments at Exh. U-3 and C-4. Besides the written arguments, both parties have relied on the decisions as given in their lists of citation. On considering the written submissions/arguments and the material on record, the following points arise for my determination and I have recorded my findings thereon for the reasons stated below :—

#### POINTS

#### FINDINGS

(1) Whether the trial Court has rightly recorded its findings on the issues and rightly passed the final order dated 30th November, 2001 ?

Yes.

(2) Whether it is required to interfere with the findings and the final order in the Judgment dated 30th November, 2001 recorded and passed by the trial Judge ?

No

(3) What orders ?

As per the order below.

#### Reasons

8. The original complaint being Complaint (ULP) No. 83 of 1998 was filed by the present Applicants employees (Complainants employees) and on, other employee. But during pendency of the said complaint, the said other Complainant employee settled the matter with the Respondents. Therefore, the said Complainant employees came to be deleted and the trial Court proceeded further to decide the complaint of the present Applicants employees.

9. The Complainants employees examined only one witness *viz.* the Complainant No. 1 employee. On the other hand, the Respondents examined only one witness *viz.* Bajirao Ramchandra Patil. Besides the oral evidence, the parties relied on the documentary evidence.

10. The learned Advocate for the Respondents has submitted that this application is filed under Sec. 44 of the M.R.T.U. and P.U.L.P. Act and it is settled position of law that the Industrial Court has only the supervisory jurisdiction and the same is extremely narrow and restricted. He has further submitted that the Industrial Court has no jurisdiction to re-appreciate or re-assess the evidence recorded by the Labour Court and to come to a different conclusion under the supervisory jurisdiction at power. In support of his submission, he has relied on the following cases :—

(1) Hoechst Marion Roussel Ltd. V/s. Smt. Phona Norena and Another [2000 (2) LLN 503 Bombay] ;

(2) Vithal Gatlu Marathr V/s. Maharashtra State Road Transport Corporation and Others (1995 I CLR 854 Bombay) ;

(3) Ammunition Factory Co-operative Credit Socy. Ltd., V/s. Balasaheb Ramchandra Ghule and Others reported in (2000 I CLR 806 Bombay) ;

(4) Janata Sahakari Bank Limited V/s. Dilipkumar Hiralal Chhatber and Others reported in FLR 1991 (63) 846 Bombay ;

(5) *Mukund Limited V/s. Gajanan Shantaram Sakre and Another* reported in *1997(76) FLR 419 Bombay*;

(6) *Kirloskar Cummine Limited V/s. Subhash Shripati Darekar and others* reported in *1997 I CLR 868 Bombay*;

(7) *Maharashtra State Road Transport Corporation V/s. Kantraon Gyanbarao Dabhale and others* reported in *2000 II CLR 865 Bombay*; and

(8) *Chief Executive Officer Sangli Zilla Parishad, Sangli V/s. Shri Rajaram Rau Gavali and Another* reported in *2002 II CLR 111 Bombay*.

From the observations in the above decisions, it appears that this Court has narrow justification and this Court cannot re-appreciate or re-asses the evidence and overturn the findings of fact, unless there is perversity.

11. The learned Advocate for the Complainants employees has also relied on 2 cases *viz.* *Parks and Gardens V/s. Nimbalkar* reported in *1997 I CLR 925 Bombay* and *Arjun Deoram Patil V/s. The Divisional Controller and others* reported in *1999 I CLR 89 Bombay*. In the former case, the employee came to be terminated from service and therefore he filed a complaint for unfair labour practices under item 1 of Schedule-IV of the M.R.T.U. and P.U.L.P. Act. On the facts, the Labour Court held that the termination of service is illegal because of non compliance of Sec. 25-F of Industrial Dispute Act. On the said decision, the company filed revision application in the Industrial Court under Sec. 44 of the said Act and the Industrial Court confirmed the findings of the Labour Court and further observed that the case was not covered by Clause (b)(b) of Sec. 2(o)(o) of the Industrial Dispute Act. In the writ petition, the submission was that the Industrial Court re-appreciated the facts and exceeded its jurisdiction. Considering the facts and the submissions, Their Lordships have held that the Industrial Court has adduced on additional grounds to support the conclusion of the Labour Court with which it agreed and that it does not amount to re-appreciation of facts. In the latter case, their Lordships have given certain guidelines to the Industrial Courts as regards citation of authorities of High Courts and the Supreme Court and giving all reasons while exercising jurisdiction under section 44 of the M.R.T.U. and P.U.L.P. Act. So considering the observations in all the cases relied on by the learned Advocates for both the parties, the revision application in hand can be considered.

12. On the pleadings and the documents, if any, the trial Judge framed the issues and decided the same and recorded his findings against them in his Judgment and order. The issues and findings are as under :—

#### ISSUES

#### FINDINGS

- |  |                         |
|--|-------------------------|
| (1) Whether the Complainant prove that the Respondent has terminated the services of the Complainant illegally ?   | Striked of.             |
| (2) Whether the Respondent prove that they have retrenched the services of the Complainant as per procedure laid down under Sec. 25-F of the Industrial Disputes Act, 1947 ?                   | Striked of.             |
| (3) Whether the Complainant prove that the Respondent has committed any unfair labour practice as contemplated under item 1(a), (b), (d) and (f) of Schedule-IV of M.R.T.U. and P.U.L.P. Act ? | No                      |
| 3(a) Whether it is proved that the complaint is maintainable ?   | Yes.                    |
| 3(b) Whether the Complainants are entitled for the reliefs, as prayed ?  | No                      |
| (4) What orders ?  | As per the final order. |

Firstly, the trial Judge decided the Issue No. 3(a), which pertains to the maintainability of the complaint. On considering the facts of both parties, the evidence on record and the submissions made by the learned Advocates, the trial Judge has come to conclusion that the joint complaint filed by all the Complainants is maintainable, as the facts with regard to all the Complainants involve common question of law and facts. The learned Advocates for both the parties have not disputed the findings on this issue. So considering the reasons and findings recorded by the trial Judge, it appears that the trial Judge has rightly decided this issue and recorded his findings thereon.

13. After the above issue, Issue No. 3(a) with regard to the maintainability of the complaint, the trial Judge decided the issue No. 3, which pertains to the unfair labour practices under item 1(a), (b), (d) and (f) of Schedule-IV of the M.R.T.U. and P.U.L.P. Act. While deciding this issue, the trial Judge has discussed the contentions one by one and also discussed the decisions relied on by both parties. Then, the trial Judge has come to the conclusion that the Complainants has failed to prove their case that the Respondents are engaged in the unfair labour practices under item 1(a), (b), (d) and (f) of Schedule-IV of the M.R.T.U. and P.U.L.P. Act. Since the issues Nos. 1 and 2 have been discussed in this issue No. 3, the trial Judge has marked his findings against the issues Nos. 1 and 2 as “strike of”. Anyway, it appears that the trial Court has discussed the issues Nos. 1 to 3 while deciding the issue No. 3 and the only thing is that the trial Judge has not marked his specific finding against the issue in the column of the findings. Thus, it does not appear any irregularities which go to the root of the matter.

14. It was one of the contentions of the Complainants that reduction in strength of the employees amounts to illegal change, and it was necessary on the part of the Respondents to issue notice under Sec. 9A of the Industrial Disputes Act. On this point, the learned Advocates had relied on several decisions. The trial Judge has discussed the same, while deciding the point of notice of change. The sum and substance of the observations in all the decisions is that the notice of change under Sec. 9-A of the Industrial Dispute Act is necessary, where the service conditions of the workmen due to the proposed rationalisation standardization or improvement in the plant and machineries or technique are likely to result into the retrenchment. In the light of the said observations, the trial Judge has further discussed the evidence. On this point, the trial Judge has held that the evidence of the Complainants does not disclose that due to rationalisation, standardization or instalment of the tea stall machine, their services were retrenched. But the evidence on record shows that the tea machine was already in existence prior to the retrenchment of the Complainants. Thus, on considering the material on record, the trial Judge has held that there was no question of notice of change under Sec. 9-A of the I. D. Act.

15. The next contention pertains to the seniority list, dated 29th January 1998. On this point, the trial Judge has discussed the evidence of the witnesses of both the parties. But the evidence of the Complainant shows that they came to know about the seniority list on 6th February 1998, when they came to be retrenched from service. While the evidence of the Respondents' witness shows that the seniority list was displayed on the same day *i. e.* on 29th January 1998 and its intimation was sent to the concerned authorities, as required by the rules. The trial Judge has pointed out that on the basis of the said seniority list, one complaint being Complaint (ULP) No. 66 of 1998 was filed in the Court on 4th February 1998. Thus, on the said fact, the trial Judge has inferred that the seniority list was published by the Respondent on 29th January 1998.

16. It is the case of the Complainants that there were 300 workers working with the Respondent company in the head office and the factory at Mumbai as well as in the different branches in India. Therefore, the provisions of Chapter V-B of Industrial Dispute Act apply to the present case. There is no dispute that there are about 55 employees in the head office and about 150 employees in the factory at Andheri and the total number of the employees in the head office, factory at Andheri and in other branches all over India is about 300. The seniority list displayed by the Respondents includes the employees employed in the head office only. Therefore, the second question arises as to whether there is any functional and financial

integrality in between the head office, the factory at Andheri and the branches constitute one undertaking/establishment. Then it can be seen, whether the Chapter V-B and Sec. 25-N of the Industrial Dispute Act will apply to the present case. It appears from the Judgment that both parties relied on several decisions of the High Courts and the Supreme Court, including the well-known decision of S. G. Chemicals case. On considering the evidence and observations in all the decisions, the trial Judge has held that the Complainants have proved that the head office has the control over the branches and the factory and it is a practice of transferring one of the workmen from the factory to the head office. However, he has further held that merely because there is transferability of the workmen and the control of the head office over the different branches and the factory, it cannot be said that there is any functional or financial integrality between them. It is further held that the different units in various States are the selling units and these units are selling the products of the Respondent company, as well as other companies. Secondly, all the units including the head office and the factory are different units and they can exist without the assistance of each other. Therefore, these units as well as the factory and the head office cannot be treated to be one industrial establishment / undertaking. So also, Chapter IV-B and Sec. 25-N of the Industrial Dispute Act would not apply to the present case.

17. It was also one of the contentions of the Complainants that they were not given the benefits of the VRS, though they were eligible for the same. However, the evidence on record shows that the Respondent company has declared the said scheme prior to their retrenchment and the Complainants had not opted for the same. Therefore, the question of giving the benefits of the VRS does not arise. The trial Judge has also held the same. It was also one of the contentions of the Complainants that their services were retrenched for the false reason that there was no sufficient work for them. On this point, the trial Judge has considered the evidence of the witness of the Respondents. It shows from his evidence that the work of the Complainants regarding back is done by the accounts clerk and it is having courier service for home delivery. Further, it appears that the respective Managers and their Stenographers were looking after the courier work. The tea machine was also installed there. On this fact, the trial Judge has come to conclusion that there was practically less work in the head office. As regards the recruitment, the trial Judge has held that nobody has been recruited in place of the Complainant and the work of the Complainants is done by the remaining staff members. Lastly the trial Judge has held that the Complainants were surplus in the service. It is also considered by the trial Judge that the evidence of the Complainants does not disclose that they were victimized for their trade union activities.

18. On considering all the above points and the findings thereon, the trial Judge has come to the conclusion that the Complainants have failed to prove that the Respondents have indulged in unfair labour practices, as alleged.

19. The Learned Advocate for the Complainants has submitted in his written statement that the employees, other than the Complainants, have been given the benefits of the VRS but the Complainants were not extended the benefits of the VRS. As discussed above, the said scheme was declared such prior to the retrenchment of the concerned workmen in this case and the Complainants failed to apply for the same. Therefore, it does not appear any substance in the said submission. Further, he has submitted that the notice of change under Sec. 9-A of the Industrial Dispute Act was required to install the tea machine. The said machine was required prior to the retrenchment and none of the Complainants made any complaint about the same. The Complainant have come with the case of installation of tea machine and notice of change, when they came to be retrenched. The trial Judge has discussed all these aspects and he has rightly come to the conclusion that the notice of change was not required in this case. The Learned Advocate for the Complainants has mainly pressed that the Labour Court had failed to appreciate that the Complainants have proved that the number of employees working for various departments of the Respondent company are more than 100 and there was functional and financial integrality between all the units, head office and the factory, but the Respondents have not complied with the Sec. 25-N of the Industrial Dispute Act. It was also

necessary on the part of the Respondents to obtain prior permission for retrenchment from the appropriate Government in accordance with the provisions of Sec. 25-N of the Industrial Dispute Act. As discussed above, the trial Judge has discussed the facts with regard to the head office, factory and the branches and the fact with regard to the functional and financial integrality. So considering all the facts, it does not appear any perversity in giving the findings on the issues or in arriving at the conclusion, as given in his Judgment. It also does not appear anything wrong in the final order passed by the trial Judge. Therefore, it is not necessary to interfere with the findings on the issues and the final order recorded passed by the trial Judge. In the result, the Point Nos. (1) and (2) are hereby decided accordingly. With this, I proceed to pass following order :—

**Order**

Revision Application (ULP) No. 8 of 2002 is hereby dismissed, with no order as to costs.

Mumbai,  
dated the 7th March 2003.

M. L. HARPALE,  
Member,  
Industrial Court, Mumbai.

K. G. SATHE,  
Registrar,  
Industrial Court, Mumbai,  
dated the 13th March 2003.

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**IN THE INDUSTRIAL COURT, MAHARASHTRA AT MUMBAI**

**EXHIBIT NO. O-4**

**APPEAL (IC) No. 76 OF 1995.**—The Simplex Mill Company Limited, 30, Keshavrao Khade Marg, Mumbai 400 011.—*Appellant*—*Versus*—Shri S. S. Saverdekar, C/o. Rashtriya Mill Mazdoor Sangh, G. D. Ambekar Marg, Parel, Mumbai 400 012.—*Opponent*.

In the matter an appeal under Sec. 84 of the Bombay Industrial Relations Act against the Order dated 13th February 1995 passed by the Labour Court in Application (BIR) No. 05/1984.

*Present.*—Shri M. L. Harpale, Member, Industrial Court, Mumbai.

*Appearances.*—Mr. M. V. Bhat, Advocate for the Appellant Mill.

Shri M. V. Palkar, Advocate for the Opponent Workman.

**Judgement and final order**

1. The present appellant company was the opponent in the application being Application (BIR) No. 05/1984 filed by the present opponent employee before VIth Labour Court, Mumbai, under Secs. 78, 79 read with Sec. 42(4) of the Bombay Industrial Relations Act, 1946. (Hereinafter the appellant company is referred to as the opponent company and the opponent employee is referred to as the applicant employee).

2. The applicant employee approached the VIth Labour Court, Mumbai with the following facts :—

He was in the employment of the opponent company from 1969 as a permanent employee. His service record was clean and satisfactory. In the circumstances, he was served with the chargesheet dated 29th July 1983 on there on the reason of his misconduct with regard to disobedience of lawful and reasonable orders. On receipt of the said show cause notice, he met the General Manager, the Assistant Manager and Assistant Labour Officer of the opponent company on 1st August 1983 and they advised him to admit the guilt. They also gave assurance to him that he would not be dismissed from service. On relying their advice and assurance, he bagged apology in writing. It is further contended that the Management terminated his service on the basis of the said written apology and thereby deceived him. Thus, the said action of termination of his service is illegal. He issued letters and requested for withdrawal of the said termination order, but no use.

3. The Opponent company resisted the claim of the Applicant employee by filing its written statement. On the pleadings of both the parties, the Labour Court framed the issues at Exh. O-1. Then, both the parties produced their oral evidence. On considering their evidence and the arguments from both sides, the Labour Court was pleased to set aside the said termination order dated 18th August 1983 and directed the opponent company to reinstate the applicant employee with continuity of service and full back wages *vide* its order dated 13th February 1995.

4. Being aggrieved by the said order dated 13th February 1995, the opponent company has preferred this appeal on the grounds as given in its appeal memo.

5. Heard the Learned Advocates for both the parties. On considering their arguments and the facts on record, the following points arise for my determination and I have recorded my findings for the reasons stated below :—

<i>Points</i>	<i>Findings</i>
(1) Whether the trial Court has rightly decided the issues, recorded his findings against the issues and passed final order dated 13th February 1995 ?	Yes.
(2) Whether it is required to interfere with the findings of the trial Court and the final order dated 13th February 1995 ?	Yes, due to the subsequent event of employment in other company.
(3) What order ?	As per the order below.

### Reasons

6. The Learned Advocate for the Opponent company has submitted that the applicant employee is not interested in the relief of reinstatement as he has been employed elsewhere. The Learned Advocate for the applicant employee has admitted that after filing of the Application (BIR) No. 5/1984, the applicant joined another service with the Bombay Port Trust in the year 1988. Therefore, the order of reinstatement is required to be set aside. But the present appeal in respect of back wages be dismissed. From the submissions made by both the Learned Advocates and the admitted facts on record, it is clear that the applicant was terminated from service on 18th August 1983. Thereafter, he challenged his termination by filing Application (BIR) No. 5/1984 before the Labour Court, Mumbai. During pendency of the said application, he joined another service with Bombay Port Trust in the year 1988. Thereafter, the said application came to be decided on 13th February 1995. So considering all the facts, it appears that due to the changed circumstances, it is required to set aside the order of his reinstatement and to give him full back wages for the period from the date of his termination of service till the date of his joining of another service in other company, only in case, it is found that the trial judge has rightly decided the said application and rightly passed the said final order.

7. The Learned Advocates for both the parties have submitted their calculations of back wages to the applicant employee. The Learned Advocate for the opponent company has submitted that the applicant employee has received his wages from the year 1988 from Bombay Port Trust. The total of the same be deducted from the full back wages, if any, as per the order of the Labour Court and the remaining amount, if any, be given to the applicant employee. On the other hand, the Learned Advocate for the applicant union has submitted that though the applicant joined the service with Bombay Port Trust in the year 1988, the applicant employee is entitled to get full back wages till 2000 when the opponent company refused to give him employment. From the rival submissions made by both the Learned advocates it appears that they are in agreement that there is only one question of granting the relief of back wages and they are also in agreement that the order in respect of the reinstatement is required to be set aside due to the subsequent chance of joining another service by the applicant employee.

8. The order was passed on 13th February 1995 and thereby directed the opponent company to pay full back wages to the applicant employee from the date of his termination *i. e.* 18th August 1983. Thereafter, the applicant joined another service in Bombay Port Trust, in the year 1988. It is, therefore, clear that the applicant employee should get full back wages for the said period on the basis of his last drawn wages and considering his annual increments, if any. The submissions / calculations given by the Learned Advocates for both parties, cannot be considered as they are not acceptable. Besides full back wages for the said period, the applicant employee should get his provident fund, gratuity and bonus during the said period. as regards the provident fund, it can be transferred where he is presently working. Thus, he can only be granted the relief of bonus, and gratuity alongwith full back wages for the said period.

9. From the above discussions, it appears that both parties have not disputed the findings and the final order dated 13th February 1995. But both of them are in agreement that the order in respect of reinstatement with continuity of service is required to be set aside and the relief of back wages is required to be given. It further appears that the Applicant employee is entitled to full back wages for the period from 18th August 1983 *i. e.* the date of termination of his service till the date of his joining the service in another company. The exact date of joining the other service is not brought on record. Therefore, the effect can be given for the period upto



December, 1987. In the result, the point Nos. (1) and (2) are hereby decided accordingly. With this, I proceed to pass following order :—

**Order**

(1) Appeal (IC) No. 76 of 1995 is hereby partly allowed.

(2) The final order dated 13th February 1995 passed by the trial Court in respect of reinstatement with continuity of service is hereby set aside.

(3) The final order dated 13th February 1995 passed by the trial Court in respect of full back wages is hereby modified as under :—

(i) The Opponent mill company is hereby directed to pay full back wages to the Applicant employee for the period from 18th August 1983 to 31st December 1987 on the basis of his last drawn wages and on considering his annual increments, if any.

(ii) The Opponent mill is also directed to pay the amount of gratuity, if any, to the Applicant employee as per the rules and law and also bonus to the Applicant employee at the rate given to other employees during the period from 18th August 1983 to 31st December 1987.

(iii) The Applicant employee is at liberty to get his provident fund transferred where he is presently working.

(4) Appeal is disposed of accordingly, with no order as to costs.

Mumbai,  
Dated the 27th February 2003.

M. L. HARPALE,  
Member,  
Industrial Court, Mumbai.

K. G. SATHE,  
Registrar,  
Industrial Court, Mumbai,  
Dated the 6th March 2003.

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**IN THE INDUSTRIAL COURT AT MUMBAI**

EXHIBIT No. O-2.

REVISION APPLICATION (ULP) No. 73 of 1996 IN MISC. CRIMINAL COMPLAINT (ULP) No. 103 OF 1995.—(1) M/s. S. R. Syntex, C/o.—D. Pradeep and Company, 182/86, Kalbadevi Road, Mumbai 400 002, (2) Ravi Agarwal, C/o.—D. Pradeep and Company, Mumbai 400 002.—*Applicants—Versus—*(1) Shri Ramesh Shivram Disale, C/o.—Jai Bharat Rashtriya Shramik Sangh, 222, N. M., 1st Floor, Cavel Cross Lane, Dr. Veigas Street, Mumbai 400 002, (2) Shri Sampat Shankar Shelke, C/o.—Jai Bharat Rashtriya Shramik Sangh, Mumbai 400 002, (3) Hon'ble Presiding Officer, Fourth Labour Court, Mumbai.—*Opponents.*

In the matter of Revision Application under Sec. 44 of the M.R.T.U. and P.U.L.P. Act, 1971 against the order dated 14th September 1995.

PRESENT.— Shri M. L. Harpale, Member,  
Industrial Court, Mumbai.

*Appearances.*— Mr. Acharekar, Advocate for the Applicants.

No Appearance on behalf of the Opponents.

*Judgement and Order*

1. This revision application is brought against the order dated 14th September 1995 issuing process against the present Applicant Nos. 1 and 2 employers in the Misc. Criminal Complaint (ULP) No. 103/1995 filed by the present Opponent Nos. 1 and 2 before the Labour Court, Mumbai, under Sec. 44 of the M.R.T.U. and P.U.L.P. Act, 1971.

2. The Opponents employees who were the Complainants in Misc. Criminal Complaint (ULP) No. 103/1995 approached the Labour Court with the following facts :—

They had filed a Complaint (ULP) No. 139/1995 before the Labour Court, under item 1 of Schedule IV of the M.R.T.U. and P.U.L.P. Act, 1971 as their services were illegally terminated by the Applicants employers with effect from 22nd February 1995. In the said complaint, they made an application for interim reliefs. The Applicants filed their reply to the said interim relief application. On hearing both the parties, and after considering the material on record, the Labour Court was pleased to allow the interim relief application on 30th June 1995. By the said order, the Labour Court issued directions to allow them to resume on duty provided they work and to pay their monthly wages. It was further contended that as per the said order of the Labour Court, both of them resumed their work with effect from 8th June 1995. Thereafter they were allowed to continue to work upto 5th July 1995 and 15th July 1995 respectively. Thereafter, they were prevented from attending their duty. The Applicants also failed to deposit monthly wages with effect from 22nd February 1995 as per the order of the Labour Court. It was further contended that the Applicants failed to comply with the said order of the Labour Court and thereby committed an offence punishable under Sec. 48 of the M.R.T.U. and P.U.L.P. Act, 1971.

3. It appears from the record that on the said Misc. Criminal Complaint, the trial Judge recorded verification/examination of the Opponents employees and then issued process against both the Applicants on 14th September 1995.

4. Being aggrieved by the said order issuing process dated 14th September 1995, the present Applicants have preferred this revision application on the grounds as given in their revision memo.

5. Heard the learned Advocates for the Applicants. On considering his arguments and the material on record, the following points arise for my determination and I have recorded my findings thereon for the reasons stated below :—

**POINTS**

**FINDINGS**

- (1) Whether it is required to interference with the order issuing process against the present Applicants in Misc. Criminal Complaint (ULP)No. 103/1995 passed by the Labour Court on 14th September 1995 ?
- (2) Whether it is required to remand the matter back to the Labour Court for deciding the point of issuing of process afresh ?
- (3) What order ?

Yes.

Yes.

As per the order below.

**Reasons**

6. It is not disputed that the Opponents employees had firstly brought a complaint being Complaint (ULP) No. 139 of 1995 before the Labour Court under various items of Item 1 of Schedule IV of the M.R.T.U. and P.U.L.P. Act. In the said complaint, an application for interim relief was also filed by them. The Applicants filed their reply to the said interim relief application. On considering the said application and the say, and also on giving hearing to both parties, the Labour Court was pleased to allow the said interim relief application, in terms of prayer clause 1(a), which as under :—

“1(a) : That pending hearing and final disposal of the main complaint, the Respondents (Applicants) their agents and servants be directed to temporarily cease and desist from engaging in such unfair labour practice and allow the Complainants (Opponents) to resume their work, provide them work and to pay them monthly amount of their wages.”

Then the Opponents employees worked with the Applicants from 8th June 1995 to 5th July 1995 and 8th June 1995 to 15th July 1995 respectively. Thereafter, the Opponents employees brought the second complaint being Misc. Criminal Complaint (ULP) No. 103/1995. It further appears that on the second complaint the trial Judge recorded verification/examination of both the Opponents employees jointly on 14th September 1995. On the same day, the trial Judge passed order issuing process against both the Applicants. The said order under challenge is as under :—

“Issue process against the accused Nos. 1 and 2 *i. e.* all the accused, returnable on 4th October 1995.”

From the above order, one thing is clear that the trial Judge has not given any reason to show that there were reasonable grounds to proceed against both the accused *i. e.* the Applicants for issuing process. Secondly, the said order does not disclose as to under which section/provision, the process against both the Applicants have been issued. It was necessary on the part of the trial Judge to give reasons and particulars to show that there were reasonable grounds to proceed further against both the accused *i. e.* the Applicants under Sec. 48 of the M.R.T.U. and P.U.L.P. Act, 1971.

7. Section 200 of the Criminal Procedure Code require to examine the Complainant even though the facts are fully setout in the written complaint. In the present case, the trial Judge has recorded verification/examination of the Complainants/Opponents employees jointly. Since Sec. 200 lays down that the Magistrate must examine the Complainant, it was necessary on the part of the Magistrate to record examination of the Complainant separately upon oath. Therefore, this irregularity is required to be cured.

8. From the above discussions, it appears that the order issuing process is not the reasoned order. From the said order, it does not appear that the trial Judge has applied his mind and on considering the material on record, he has passed the said order. Secondly, it is not expected to record examination of both the Complainants jointly. It is, therefore, required to set aside the said order of the trial Court and remand the matter back for recording examination of the Complainants separately and then to pass necessary order issuing process or dismissing the complaint by considering the material before him. In the result, the Point Nos. (1) and (2) are hereby decided accordingly. With this I proceed to pass the following order :—

**Order**

(1) Revision Application (ULP) No. 73/1996 is hereby partly allowed.

(2) The order issuing process dated 14th September 1995 is hereby set aside.

(3) The matter is hereby remanded back to the Labour Court with a direction to record examination of both the Complainants separately, as required under section 200 of the Criminal Procedure Code and then to pass necessary order in the light of the above observations.

Mumbai,

Dated the 24th February 2003.

M. L. HARPALE,

Member,

Industrial Court, Mumbai.

K. G. SATHE,

Registrar,

Industrial Court, Mumbai,

Dated the 7th March 2003.

## IN THE INDUSTRIAL COURT, AT MUMBAI

### EXHIBIT O-2.

MISC. APPLICATION (ULP) No. 12 of 1993.—Complaint (ULP) No. 286 of 1992.—Ravindra Sitaram Sawant, 71, Jerbai Wadia Road, Chunnawala Villa Chawl, Bhoiwada, Parel, Mumbai 400 012.—*Applicant—Versus—*(1) Starling Roadlines Limited, 45, Ibrahim Merchant Road, Khadak, Bombay-400 009. (2) Shri Mehedi Jagmagie, Managing Director, Sterling Roadlines Limited, 45, Ibrahim Merchant Road, Khadak, Mumbai 400 009.—*Opponents.*

In the matter of an application under Sec. 50 of the M.R.T.U. and P.U.L.P. Act for recovery certificate.

PRESENT.— Shri M. L. Harpale, Member, Industrial Court, Mumbai.

*Appearances.*— Mr. S. A. Sawant, Advocate for the Applicant.

Mr. Shafi I. Kazi, Advocate of the Opponents.

### *Judgement and Final Order*

1. The Applicant employee has filed this application against the Opponent No. 1 company and its Managing Director *i. e.* the Opponent No. 2 for recovery certificate under Sec. 50 of the M.R.T.U. and P.U.L.P. Act, 1971.

2. According to the Applicant employee, he filed a complaint being Complaint (ULP) No. 286 of 1992 against the Opponents before the Industrial Court, Mumbai. Alongwith the said complaint, he also filed an application Exh. U-2 for interim reliefs on which the Industrial Court was pleased to issue cause notice to the Opponents and also passed order directing the Opponents to allow him to join his duty. Immediately after the said order dated 11th February 1992, he went to the Opponent company to report for duty on 13th February 1992, but he was refused to join his duty. He has further contended that as per the order dated 11th February, 1992, he was entitled to receive his wages for the months of January 1992, February 1992 and March 1992 which comes to Rs. 2,775. Hence this application.

3. On appearance, the Opponent No. 2 filed their written statement at Exh. C-2. According to them, on 13th February 1992 the Applicant employee came at late hour for joining his duty, therefore, they asked him to come on the next day. Thereafter, he did not come till 22nd April 1992. Thereafter, he came on 23rd April 1992 and he was allowed to join his duty and since then he is reporting on duty regularly. They have further submitted that the Applicant employee has not worked from 13th January 1992 and therefore, he is not entitled to the wages for January, 1992. He is also not entitled to the wages for February and March, 1992 as he had not worked or made any efforts to report for duty, as per the directions of the Court. So considering all the facts, the application be dismissed.

4. The following points arise for my determination and I have recorded my findings thereon for the reasons stated below :—

<i>Points</i>	<i>Findings</i>
(1) Whether the Applicant employee is entitled to the recovery certificate of Rs. 2775 as claimed ?	No.
(2) What order ?	As per the order below.

### Reasons

5. The Applicant employee has examined himself. On the other hand, the Opponent No. 2 has deposed on his behalf and on behalf of the Opponents No. 1 company.

6. From the facts and evidence on record, it appears that there is no dispute that the Applicant employee had filed a complaint being Complaint (ULP) No. 286 of 1992 against the Opponents before the Industrial Court, Mumbai, under the M.R.T.U. and P.U.L.P. Act. Alongwith the said complaint, he also filed application Exh. U-2 for interim relief.

7. On hearing the learned Advocate for the Applicant employee, the Industrial Court was pleased to pass the following order :—

“Issue notice to show cause returnable on 10th April 1992, alongwith the direction to the Respondent to allow the Complainant to join his duties.”

The above order came to be passed on 11th February 1992. The said order does not direct the Respondents *i. e.* the present Opponents to pay wages to the Applicant employee for the month of January, 1992 or for the period prior to the said order. As regards allowing to join duty, the evidence of the Applicant employee shows that after the said order, he went to the Opponents to join his duty, but he was not allowed till 23rd April 1992. On this point, the evidence of the Opponent No. 2 shows that on 23rd February 1992 at about 11.00 a.m. the Applicant employee came to join his duty *i. e.* one and half hour late of his duty hours, therefore, he was not allowed to join his duty. Thereafter, the Applicant did not come to join his duty till 23rd April 1992. Thus, there is a dispute as to whether the Applicant employee took efforts to join his duty before 23rd April 1992 as per the Court order and whether the Opponents have refused to allow him to join his duty. This question can be decided in the complaint, as this application is filed for recovery certificate on the order dated 11th February 1992 passed below the application Exh. U-2 for interim reliefs and the main question is as to whether the Applicant employee is entitled to the recovery certificate, as claimed. The learned Advocate for the Opponents has submitted that by the said order dated 11th February 1992 the Court has not quantified the amount and, therefore, the application is not maintainable. In support of his submission, he has relied on the case of *V. Ramnathan V/s. Hindustan Lever Limited* reported in *2002 1 CLR 231 Bom.* Wherein, Their Lordships have held that the payment of sum to the employees are to be properly decided by the proper forum and not a forum under Sec. 50 of the Act. If the amount due and payable to the employee is not determined, no certificate of recovery can be issued under Sec. 50 of the Act. From the above order passed below the application Exh. C-2, it clearly shows that the amount due and payable to the Applicant employee is not determined by the Industrial Court, therefore, this Court has not authority to determine the amount while issuing recovery certificate under Section 50 of the Act. It is so, this Court cannot issue recovery certificate as claimed by the Applicant employee. Therefore, I have no hesitation to hold that the Applicant employee is not entitled to the recovery certificate, as claimed. In the result, the Point No. (1) is hereby decided in the negative. With this, I proceed to pass the following order :—

### Order

Misc. Application (ULP) No. 12 of 1993 is hereby dismissed. No order as to costs.

Mumbai,

Dated the 3rd March 2003.

M. L. HARPALE,

Member,

Industrial Court, Mumbai.

K. G. SATHE,

Registrar,

Industrial Court, Mumbai.

Dated the 7th March 2003.

**BEFORE SHRI. G. R. BAVISKAR, MEMBER  
INDUSTRIAL COURT AT NASHIK**

EXHIBIT No. 0.4

APPLICATION (MRTU) No. 7 OF 2000.—Kamgar Utkarsha Sabha, Smt. Rama Gulab Joshi Niwas, Parleshwar Road, Vile Parle (E), Mumbai 400 057.—*Applicant—Versus—E.B.G. India Pvt. Ltd., Village Wadivarhe, Bombay Agra Road, Taluka Igatpuri, Dist. Nashik.—Non Applicant.*

CORAM.— Shri. G. R. Baviskar, Member.

*Appearances.*— Shri. Hinge, Advocate for the Applicant.

Shri. C. A. Deolalkar, Advocate for the Non-Applicant.

Application for recognition as a recognised union under section 11 of the MRTU & PULP Act, 1971.

**Order**

**(Dated 7th March 2003)**

1. Applicant union has filed this application seeking recognition under section 11 of the MRTU & PULP Act, 1971 as a recognised union.

2. Applicant is the registered trade union duly registered under the Trade Unions Act, 1926 on 15th December 1975 *vide* registration certificate No. 7055.

3. Applicant union has office bearers elected on 21st March 2000 and it has following the membership in the undertaking called as E.B.G. India Ltd., for the whole period of 6 calendar months immediately after the proceeding in which the application has made. From June, 2000 to November, 2000 total number of 564 per centage is 100% membership.

4. Executive committee of the Applicant union held the meeting on 25th March 2000 and decided that union should apply for recognition union in the E. B. G. India Ltd., Nashik.

5. Undertaking for which trade union seeking recognition is engaged in manufacturing of steel and M. S. Sheets and is the engineering industry having legal address as under :

“M/s. Raymond Steel (EBG India Pvt. Ltd.) Village Vadivarhe, Bombay Agra Road, Taluka : Igatpuri, Dist. Nashik.”

6. Following persons are the partners of the E.B.G. India which is engineering industry :

(1) Mr. Karl Heinz Grazenia

(2) Dr. Carl Dieter Wuppermann

(3) Dr. Klaussteok

(4) Mr. Dietmar Hellmann

(5) Dr. Michael Thiemann

(6) Mr. Hienz Peter K. Lenz

(7) Mr. C. S. Mathur

(8) Mr. Gautam Singhanian

(9) Mr. Pradeep Bhandari

7. Constitution of the Applicant union provides for that member of the Applicant union has to pay monthly subscription Rs. 2 every month. Executive committee of the Applicant union met on the following dates during the 12 months preceding the date of the application *i.e.* 27th November 1999, 26th February 2000, 27th May 2000 and 26th August 2000.

8. Applicant union maintains minutes books in which all resolutions passed by the Executive Committee or the General Body of the union are recorded.

9. Applicant union has maintained accounts and such accounts are lastly audited by M/s. K. V. G. Aithal, Chartered Accountant on 20th March 2000 and certificate to that effect auditor is issued. The Applicant union is recognised union for the following undertakings :

- (1) M/s. G. T. C. Industries Ltd.,
- (2) M/s. Raymond Wollen Mills Ltd.,
- (3) M/s. Parle Products Pvt. Ltd.,
- (4) M/s. Aries Agrovat Industries Pvt. Ltd.,
- (5) M/s. Godfrey Philips India Ltd.,
- (6) M/s. Sanghavi Steel Ltd., Taloja
- (7) M/s. Institute for Design & Electrical Measuring Instruments,
- (8) M/s. Mutual Steel Industries Bombay,
- (9) M/s. Hotel Sand Pvt. Ltd.,
- (10) M/s. Himalaya Drug Co.,
- (11) M/s. Miro Electronics Ltd. (Onida)
- (12) M/s. J. K. (Bombay) Ltd., Thane
- (13) M/s. Polyochem Ltd.,
- (14) M/s. Army & Navy Press Prop. & Pvt. Ltd.,
- (15) M/s. Neo Pharma Pvt. Ltd.,
- (16) M/s. Lemuir Air Express,
- (17) M/s. X. L. O. India Ltd.,
- (18) M/s. Chase Bright Steel Ltd., Thane.
- (19) M/s. Ecoboard Industries Ltd., Jambhulwadi, Taluka Walwa, Dist. Sangli.

10. The Applicant union tenders prescribed fee of Rs. 5 for this application.

11. Applicant union has filed this application on 28th November 2000. Learned Predecessor of this Court please to notice returnable on 22nd January 2001. In response to the notice the Opponent has appeared and filed affidavit below Exh.C-2 of Mr. A. V. Shahaje, Manager (Personnel and Admn.) affirming that he is conversant with the present matter. Notice was translated into Marathi, the language understood by the majority of workmen and also in Hindi and displayed conspicuously on the notice board on 22nd January 2001 and complied the directions given in the notice. In spite of the application of the notice on the notice board but none has appeared from any union or individually.

12. Applicant has filed say at Exh. C-3 contending that Applicant has put to the strict proof in respect of the submission made in this paragraph. Applicant union does not qualify for recognition in view of the provisions under the Trade Union Act, 1926.

13. Number of members shown by the Applicant union is 564 however, about 216 persons from the said list are not 'employees' within the meaning of Section 3(5) of the MRTU & PULP Act, 1971, they are mainly in supervisory, administrative and managerial level and their salary exceeds for more than Rs. 1600. Therefore, they are obstructed under sections 2(s) of the Industrial Disputes Act, 1947. Therefore, there is no 100% membership amongst the Applicant union. Annex. 'A' to this say is the list of the persons who are not employees within the meaning of law, similarly the persons at Sr. Nos. 164, 305, 391, 444 and 537 in annex 'B' are not in the employment of the company. Non Applicant further submits that Applicant union have the membership of 322 workmen mentioned in Exh. 'B' to the application.



14. With this, application is not tenable in law as well as in facts and therefore application needs to be rejected with costs.

15. On the above controversy, following points arises for my consideration :—

*Issues*

(1) Whether the Applicant union has a registered Trade Union having members among the employees above 33% in the Opponent company ?

(2) Whether the Applicant union has its office bearers and executive committee holding the meeting periodically and minutes thereof maintained ?

(3) Whether the Applicant union is entitled for recognition and certificate thereto under the MRTU & PULP Act, 1971 ?

(4) What order ?

16. The above issues are answered as follows :—

*Findings*

(1) Yes.

(2) Yes.

(3) Yes.

(4) As per order.

**Reasons**

17. Heard Advocate Shri. Hinge for Applicant. Heard Advocate Shri. Deolalkar for Non Applicant. Perused the contents and affidavits. Perused documents produced from Exhibit 'B' to 'G'.

18. *Point No. 1.*—Non Applicant raised point that the list of the employees showing members of the Applicant union produced at Exhibit 'B' wherein the number of employees shown 564, out of 216 are not 'employees' within the meaning of section 3(5) of the MRTU & PULP Act, 1971. As they are excluded from the definition of 'workman' under section 2(S) of the Industrial Disputes Act, 1947. Therefore, even excluding 216 employees to the category of the supervisory and managerial staff and excluding from the definition of the workmen, still the total strength of the employees is 322 who are the members of the Applicant union, after non exclusal of the supervisory and managerial category employees of 216. As annex. 'A' to the reply, the number of the members of the Applicant union comes to 322. So this strength of members of the union are 322 is having membership amongst the employees of the Non Applicant is more than 33% in the last immediately proceeding six calender months on the date of 14th December, 2002 on which the application is filed for recognition. So Point No. 1 is answered in the affirmative.

19. *Point No. 2.*—The Applicant union has its own office bearers. Executive Committee of the Applicant union held the meetings during the last 12 proceeding months *i.e.* 27th November 1999, 26th February 2000, 27th May 2000 and 26th August 2000. The constitution of the union is produced in photostate copies at Annex. 'D' of the application. As per the constitution the member of the Applicant union has to pay monthly subscription of Rs. 2 every month. Minutes of the resolution passed by the Executive Committee and General Body are recorded in the Minutes Book, it is not disputed fact nor it is disputed that Applicant union is the trade union having duly registration No. 7055 dated 15th December 1975 under the Trade Unions Act, 1926. Accounts of the Applicant union is duly audited lastly on 20th March 2000. Accordingly, the certificate of the auditor and certified true copy is at Annex. 'E' to the application, certificate issued by M/s. K. V. G. Aithal, chartered Accountants. For the registered address of the Applicant union is 'Kamgar Utkarsha Sabha', Smt. Rama Gulab Joshi Niwas, Parleshwar Road, Vile Parle (E), Mumbai 400 057. Undertaking in which recognition is seeking is located at the following address, "M/s. E. B. G. Pvt. Ltd.," Village Wadiverhe, Bombay Agra Road, Taluka : Igatpuri, District Nashik 422 403. As per the Annex. 'A' to the application, officer bearers of the Executive Committee for the year 2000 is enclosed. In view of the above discussions, Point No. 2 answered in the affirmative.

20. *Point No. 3.*—The Applicant union succeeds to establish for recognition, hence Applicant union is entitled for relief to register as recognised union under section 12 of the MRTU & PULP Act, 1971. Accordingly, I answer point No. 3 in the affirmative.

21. In the result, I proceed to pass the following order :—

**Order**

1. Applicant union be registered as a recognised union under section 12 of the MRTU & PULP Act, 1971 in the said undertaking namely M/s. E. B. G. India Pvt. Ltd., Village Wadhvarhe, Bombay Agra Road, Taluka Igatpuri, District Nasik 422 403.

2. Office to issue recognition certificate accordingly to the extent of employees of the Non Applicant union except supervisory and managerial staff.

Nashik,

Date the 7th March 2003

G. R. BAVISKAR,

Member,

Industrial Court, Nashik.

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**BEFORE SHRI. G. R. BAVISKAR, MEMBER**  
**INDUSTRIAL COURT, AT NASHIK**  
**EXHIBIT No. 0.5**

APPLICATION (MRTU) No. 10 OF 2002.—Salora Wadivarhe Kamgar (Antargat) Sanghatana, C/o. Salora Shinsung Textile, Co. Ltd., Group No. 380, Wadivarhe, Tal. Igatpuri, Dist. Nashik.—*Applicant—Versus—*Salora Shinsung Textile Co., Ltd., Group No. 350, Wadivarhe, Taluka Igatpuri, Dist. Nashik.—*Non Applicant.*

CORAM.— Shri. G. R. Baviskar, Member.

*Appearances.*— Smt. Ghosh, Advocate for the Applicant.

Shri. Jape, Advocate for the Non-Applicant.

In the matter of application for registration as a recognised union.

**Order**

1. Applicant has filed this application under section 11 of the MRTU & PULP Act, 1971. Application is filed on 25th October 2002 in the capacity of the registered trade union. The Applicant has got registration No. NSK-N-593. The Applicant has registration certificate dated 24th February 1997 under the Trade Unions Act.

2. The Applicant union has six office bearers and ordinary members who constitute the executive committee of the union. The Applicant union has following membership in the undertaking called as Salora Shinsung Textile Co. Ltd., Wadivarhe for the while of the period of six calender months immediately proceeding months.

Sr. No.	Months	Members	% to the total number of workers employed in the undertaking
(1)	(2)	(3)	(4)
1. April	187	100%	
2. May	187	100%	
3. June	187	100%	
4. July	187	100%	
5. August	187	100%	
6. September	187	100%	

3. The General Body Meeting of the Salora Wadivarhe Kamgar (Antargat) Sanghatana held on 16th August 2002. It has passed the resolution unanimously and applied for the registration as a recognised union in the undertaking Salora Shinsung Textile Co. Ltd. General Secretary of the union is authorised to file this application. The undertaking for which the trade union seeking recognition has a recognised union is engaged in manufacturing of Sooks and is located at the following address :—

“Salora Shinsung Textile Company Ltd.,  
Group No. 350, At Wadivarhe,  
Taluka Igatpuri, District Nashik.”

4. Mr. A. K. Bhattacharya, Asstt. General Manager and Shri. Sunil Pathak, Personnel Manager are looking after the manufacturing activities in this company.

5. The constitution of the Applicant union provides for the matters mentioned in Section 19 of the Act. The copy of the constitution is annexed hereto. The member of the Applicant union has to pay monthly subscription of Rs. 4 for every month.

6. The executive committee of the Applicant union met on the following dates during the twelve months *i.e.* 3rd June 2001, 7th September 2001, 10th October 2001, 1st January 2002 and 5th March 2002.

7. Applicant union maintains separate minute books for recording resolutions passed by the Executive Committee and General Body of the union.

8. Applicant union maintains accounts which are duly audited by S. K. Mandlik and company. The certificate accordingly issued by the auditor for the year 2000 and 2001. The accounting year of the union is from 1st January to 31st December of every year.

9. The Applicant union is the only representative union in the undertaking for which recognition is sought for and has 100% membership of the workmen. No other union has membership in the said undertaking.

10. Applicant prayed for recognition under the Act.

11. Non Applicant filed its written statement at Exh. C-5 stating therein that contents of the recognition application are not disputed. Non Applicant company has displayed the notice as directed by the Industrial Court. No other union is fouching with the workers of the Non Applicant company. The Applicant union if complied the section 19 of the MRTU & PULP Act, 1971, they have no objection.

12. The Applicant union has instigated any strike during the preceding six months. With this, it is prayed that appropriate order may kindly be pass.

13. On the above controversy, following points arrises for my consideration :—

#### *Points*

(1) Does the Applicant prove that as per the constitution of the union membership fee prescribed is more than 50 ps. per month and the account is audited once in the proceeding year ?

(2) Whether the Applicant union has its office bearers and executive committee holding the meeting periodically and minutes thereof maintained ?

(3) Whether the Applicant union is entitled for recognition and certificate thereto under the MRTU & PULP Act, 1971 ?

(4) What order ?

14. My findings to the above points are answered below :—

#### *Findings*

(1) Yes.

(2) Yes.

(3) Yes.

(4) As per order.

#### **Reasons**

15. Heard Mrs. Ghosh Advocate for the Applicant union. Applicant union is the only union functioning among the workers of the Non Applicant company. The Applicant union has produced original counter foilos of the membership precscription receipts for the perusal of this Court. Applicant union also produced photostate copies of the constitution. On perusal of the constitution, it provides membership fee of Rs. 4 for p.m. and Rs. 2 for entry fee. On perusal of the counter foilos of the receipts it reveals that counter folio receipt No. 201 dates 15th April 2002 of Rs. 50 are received from Mr. Gholap Santosh for the period of 1st January 2002 to 31st December 2002 including entry fee. Similarly counter folio receipt No. 286 dated 15th April 2002 by which Rs. 50 received from Mr. Patil Shashikant. Subscription for the period of

1st January 2002 to 31st December 2002 including entry fee dated 15th April 2002. Similarly receipt No. 301 dated 15th April 2002 by which Rs. 50 are received from Aher Anjana Shivram including membership subscription and entry fee. Receipt No. 400, dated 15th April 2002 by which Rs. 50 are received from Mr. Gavhade Prakash for the period of 1st January 2002 to 31st December 2002 including membership subscription and entry fee. Photostate copies of the accounts audited by S. K. Mandlik and company showing accounts as on 31st December 2001 and 31st December 2002. Declaration of audit report in photostate produced in the Court issued by S. K. Mandlik and company for the year ending 31st December 2001. These documents are sufficient to conclude that the Applicant has received the membership subscription per month of Rs. 4 and entry fee of Rs. 2 as per the constitution of the union. The membership fee received in *toto* is audited by the Auditor Mr. S. K. Mandlik and company issued auditor report after examining the accounts for last two years, those are 2000 and 2001. Having more than 50 ps. membership subscription per month and accounts are duly audited by the Chartered Accountant S. K. Mandlik and company for the financial year. According I answer point No. 1 in the affirmative.

16. On going through the minute books original produced for perusal, resolution passed by the Executive Committee are being recorded so also resolution passed by the General Body from 10th February 2000 are duly recorded in the minute book maintained from 29th January 2000. General Body meeting was held in the premises Non-Applicant company at 3 p.m. and it was preceded by one Mr. Katore Dattu wherein resolution No. 2 and it was resolved to apply for registration as recognised union to the Industrial Court and Mr. Kisan Shankar Shinde is authorised to sign the application for recognition. Minutes Book copies are produced on record. Separate Minute Book is maintained for the resolution passed in the Executive Committee and Executive Committee has held the meetings periodically. Minutes were recorded in the minute book. Such copies of resolution are produced on record. Meetings were also held on 3rd June 2001, 7th September 2001, 10th October 2001; 1st January 2002 and 5th March 2002 and minutes are recorded in the minutes book. So from these documents it proves that executive committee is held meetings periodically and maintained minute book. Accordingly, point No. 2 is answered in the affirmative.

17. Since there is no other union in existence and the Applicant union only is holding 100% membership of the workers of the Non-Applicant company, Non-Applicant company has displayed the notice and it has no objection to grant the recognition to the Applicant union, if the union complied section 19 of the MRTU & PULP Act, 1971. As per the discussion of point Nos. 1 and 2, it is held that Applicant union is complied section 19 of the MRTU & PULP Act, 1971. There is no dispute regarding 100% membership. So in the result, point No. 3 has to be answered in the affirmative.

18. In the result, I proceed to pass the following order :—

### **Order**

1. Application is allowed.

2. Applicant union is entitled for registration as a recognised union under section 12 of the MRTU & PULP Act, 1971.

3. Office of this Court is to issue registration certificate from the date of order to the Applicant union as a recognised union under MRTU & PULP Act, 1971.

Nashik,  
Date the 20th March 2003.

G. R. BAVISKAR,  
Member,  
Industrial Court, Nashik.

**BEFORE SHRI G. R. BAVISKAR, MEMBER,  
INDUSTRIAL COURT AT NASHIK**

EXHIBIT No. 0-6

APPLICATION (MRTU) No. 12 OF 2002.—Association of Engineering Workers, 252, Janata Colony, Ramnarayan Narkar Marg, Ghatkopar (E), Mumbai 400 077.—*Applicant—Versus—*M/s. Crompton Greaves Ltd., Switch Gear Division, A-3, MIDC, Ambad, Nashik.—*Non-Applicant.*

CORAM.— Shri G. R. Baviskar, Member.

*Appearances.*— Smt. Shreelekha Ghosh (Wagh), Advocate for the Applicant.

Shri C. A. Deolalkar, Advocate for the Non-Applicant.

Application under section 11 of the MRTU & PULP Act, 1971 for registration as a recognised union.

**Order**

**(Dated the 29th March 2003)**

1. The Applicant has filed this application under section 11 of the MRTU & PULP Act, 1971 hereinafter the Act. The Applicant is a registered Trade Union under the Indian Trade Unions Act, 1926 and got certificate No. 3178 on 16th October 1958.

2. The Applicant union has the office bearers elected on 20th April 2002.

3. The Applicant union has the following membership in the undertakings called M/s. Crompton Greaves Ltd. for the whole of the period of six calendar months immediately proceeding in the month in which the application is made.

Sr. No.	Months	Members	Percentage to the Total No. of the employees employed in the undertaking
(1)	(2)	(3)	(4)
1	April, 2002	852	95%
2	May, 2002	852	95%
3	June, 2002	852	95%
4	July, 2002	852	95%
5	August, 2002	852	95%
6	September, 2002	852	95%

4. The Applicant Union held meeting on 11th April 2002 and decided to apply for registration as a recognised union in M/s. Crompton Greaves Limited, Ambad, Nashik.

5. The said Co. in which recognition seeks is located at original address and engaged in manufacturing fans, electrical utensils and is located at the following address :—

“Switch Gear Division, A-3, MIDC Ambad, Nashik.”

6. The constitution of the union provides for the matters mentioned in section 19 of the Act. The Applicant union has not instigated, aided or assisted commencement of continuation of strike amongst employees in the undertakings for which the recognition seeks.

7. The Applicant union has not made an application for registration as a recognised union before any Industrial Court under the Act.

8. The Member of the union has to pay monthly subscription of Rs. 5 for every month.

9. The executive committee of the Applicant union met on following dates during the 12 months proceeding the date of application 12th July 2001; 12th October 2001; 11th January 2002; 11th April 2002 and 11th July 2002.

10. The Applicant union maintains minute books in which all resolutions passed by the Executive Committee or General Body of the Applicant union are recorded.

11. The Applicant union maintains the accounts and such accounts were lastly audited by Mr. V. N. Patwardhan and Co. on 15th April 2002.

12. The accounting year of the Applicant union starts from 1st January and end to 31st December. With this it is prayed that the recognition please be granted under the Act.

13. The Non-Applicant has filed say at Exh. C-5. The Non-Applicant contends that on the face of documents submitted by the Applicant union if this Court come to the conclusion that the application for recognition has made by the Applicant makes eligible to get recognition under the Act for undertaking of Non-Applicant addresses shown in title. The Non-Applicant has no objection for granting recognition to the Applicant Union.

14. The Non-Applicant denies the contents in para 6 of the application.

15. The N. A. Co. is registered under the Companies Act, 1956 and run by a Team of Divisional Manager and Mr. S. M. Trehan is not the Vice-President as Shri D. S. Patil is Vice-President and Mr. Biswas as a Sr. General Manager is absolutely wrong as Mr. Biswas has expired on 8th December, 1997.

16. In the above pleadings following points arise for my consideration :—

#### *Points*

(1) Whether the Applicant union has a registered Trade Union having members and among employees of the above 33% in the N. A. Co. ?

(2) Whether the Applicant union has its office bearers and executive committee holding the meeting periodically and minutes thereof maintained ?

(3) Whether the Applicant union is entitled for recognition and certificate thereto under the MRTU & PULP Act, 1971 ?

(4) What order ?

My findings on the above points are recorded for the reasons mentioned below :—

#### *Findings*

(1) Affirmative.

(2) Affirmative.

(3) Affirmative.

(4) As per order.

#### **Reasons**

17. Heard Advocate Mrs. Ghosh (Wagh) for Applicant. Heard Advocate Mr. C. A. Deolalkar, for N. A. Co. The Applicant has produced the original minutes books and counter-foils of the subscription paid to the Union by the employees of the N. A. The learned Advocate for N. A. submitted that if the Applicant union complies sec. 19 of the Act it may be granted the certificate as a recognised union in the Unit.

18. *Point No. 1.*—On perusal of the counter-foil of the membership receipt it reveals that the Applicant Union has received the member fees from Raut M. N. *vide* receipt No. 021001 dated of 4th March 2002 for January to December, 2002 Rs. 60 at the rate of Rs. 5 p.m. Similarly on perusal of almost 18 counter-foils it reveals that the employees have paid the subscription of membership Rs. 60 for January to December, 2002. On going through the arithmetical

Nos. list of the employees shows that about 852 employees are the members for the year January to December, 2002 of the Applicant union. From this it is undoubtedly proved that the Applicant union has more than 33% membership amongst the employees of the N. A. Co. Hence Point No. 1 is answered in the affirmative.

19. *Point No. 2* : On perusal of the register of executive committee 2002 it shows that on 11th April, 2002 the executive committee meeting was held. Resolutions were passed. One of the material Resolution that Mr. Bhausahab Ghuge will apply for recognition with the N. A. undertakings. The executive committee meeting were held on 11th January 2002, 11th April 2002, 11th July 2002, 13th October 2002 wherein various resolutions were passed in the executive committee and the minutes thereof recorded in the minutes books. On perusal of the copy of the constitution of the Applicant union and in the name and style itself indicates that this Applicant union is empowered to organise the employees employed in the undertaking.

20. The account of the Applicant union is audited for the year ending 31st December 2000 and certificate accordingly issued by Mr. V. N. Patwardhan and Co. Chartered Accountant *vide* certificate dated 24th May 2001.

In the result, I answer point No. 2 in the affirmative.

21. *Point No. 3.*—The Applicant Union succeeds to establish the facts discussed above, therefore, the Applicant Union is entitled for registration as a recognised union under the MRTU & PULP Act, 1971.

In the result, I answer Point No. 3 in the affirmative. With this I proceed to pass the following order :—

### Order

(1) Application is allowed.

(2) Applicant union is entitled for registration as a recognised union under section 12 of the MRTU & PULP Act, 1971.

(3) Recognition is granted to act in Non-Applicant undertaking namely M/s. Crompton Greaves Ltd., Switch Gear Division, A-3, MIDC Ambad, Nasik.

(4) Accordingly the office of this Court to issue the certificate of registration as a recognised union to the Applicant union.

Nashik,  
Date the 29th March 2003.

G. R. BAVISKAR,  
Member,  
Industrial Court, Nashik.



पुढील अधिसूचना इत्यादी असाधारण राजपत्र म्हणून त्यांच्यासमोर दर्शविलेल्या दिनांकांना प्रसिद्ध झाल्या आहेत.

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शुक्रवार, मार्च ८, २०१३/फाल्गुन १७, शके १९३४

### उद्योग, ऊर्जा व कामगार विभाग

मादाम कामा रोड, हुतात्मा राजगुरु चौक, मंत्रालय,  
मुंबई ४०० ०३२, दिनांक ८ मार्च २०१३.

### शुद्धिपत्र

मुंबई औद्योगिक संबंध अधिनियम, १९४६.

क्रमांक मुं.औसं.१२०१३/प्र.क्र. ११/कामगार-२.—उद्योग, ऊर्जा व कामगार विभाग, मंत्रालय, मुंबई यांचे शुद्धिपत्र क्रमांक आयसीई-१२१२/प्र.क्र. १९५/कामगार-६, दिनांक ७ फेब्रुवारी २०१३ यांस अनुसरून शासनाने यापूर्वी निर्गमित केलेली शासन अधिसूचना क्रमांक मुं.औसं. १२०१३/प्र.क्र. ११/कामगार-२, दिनांक १२ फेब्रुवारी २०१३, उद्योग, ऊर्जा व कामगार विभाग या अधिसूचनेतील **अनुक्रमांक २ मधील नोंद—**

अ.क्र.	न्यायाधीशांचे नाव व सध्याचे पदनाम	कोणाच्या जागी	सदस्यांचे नाव व नवीन पदनाम	संबंधित शासन अधिसूचना क्रमांक
(१)	(२)	(३)	(४)	(५)
२	श्रीमती पी. डी. देसाई, जिल्हा न्यायाधीश-१ आणि अतिरिक्त सत्र न्यायाधीश, कोल्हापूर.	श्री. व्ही. डब्ल्यू. हुड.	श्रीमती पी. डी. देसाई, सदस्य, औद्योगिक न्यायालय, नागपूर.	बीआयआर-१०६५/II/ कामगार-१, दिनांक २ मे १९६५.

### या ऐवजी

अ.क्र.	न्यायाधीशांचे नाव व सध्याचे पदनाम	कोणाच्या जागी	सदस्यांचे नाव व नवीन पदनाम	संबंधित शासन अधिसूचना क्रमांक
(१)	(२)	(३)	(४)	(५)
२	श्रीमती पी. डी. देसाई, जिल्हा न्यायाधीश-१ आणि अतिरिक्त सत्र न्यायाधीश, कोल्हापूर.	श्री. आर. एम. मुळे.	श्रीमती पी. डी. देसाई, सदस्य, औद्योगिक न्यायालय, नाशिक.	बीआयआर-१०८३/७०२०/ कामगार-९, दिनांक १० नोव्हेंबर १९८३.

अशी वाचण्यात यावी.

महाराष्ट्राचे राज्यपाल यांच्या आदेशानुसार व नावाने,

सं. धों. डगळे,  
कार्यासन अधिकारी.

In pursuance of Clause (3) of Article 348 of the Constitution of India, the following translation in English of the Government Notification, Industries, Energy and Labour Department, No. BIR-12013/C.R. 11/LAB-2, dated the 8th March 2013, *Extra ordinary*, is hereby published under the authority of the Governor.

By order and in the name of the Governor of Maharashtra,

S. K. GAWADE,  
Deputy Secretary to Government.

### INDUSTRIES, ENERGY AND LABOUR DEPARTMENT

Madam Cama Road, Hutatma Rajguru Chowk, Mantralaya,  
Mumbai 400 032, dated the 8th March 2013.

#### CORRIGENDUM

BOMBAY INDUSTRIAL RELATIONS ACT, 1946.

No. BIR.12013/C.R. 11/LAB-2.—With reference to the Corrigendum No. ICE-1212/C.R.195/Labour-6, dated the 7th February 2013, Industries, Energy and Labour Department, Mantralaya, Mumbai, the entry in the Notification No. BIR-12013/C.R. 11/LAB-2, dated the 12th February 2013, Industries, Energy and Labour Department, Mantralaya, Mumbai *noted as* :—

Sr. No.	Judge's Name and Present Designation	On Whose Place	Member's Name and New Designation	Government Notification No.
(1)	(2)	(3)	(4)	(5)
1	Ms. P. D. Desai, District Judge-1 and Additional Sessions Judge. Kolhapur.	Shri V. W. Hood.	Ms. P. D. Desai, Member, Industrial Court, Nagpur.	BIR-1065/II/Lab-1, dated 2nd May 1965.

*be Read as*

Sr. No.	Judge's Name and Present Designation	On Whose Place	Member's Name and New Designation	Government Notification No.
(1)	(2)	(3)	(4)	(5)
2	Ms. P. D. Desai, District Judge-1 and Additional Sessions Judge, Kolhapur.	Shri R. M. Muley.	Ms. P. D. Desai, Member, Industrial Court, Nashik.	BIR-1083/7020/Lab-9, dated 10th November 1983.

By order and in the name of the Governor of Maharashtra,

S. D. DAGALE,  
Desk Officer.

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शुक्रवार, मार्च ८, २०१३/फाल्गुन १७, शके १९३४

### उद्योग, ऊर्जा व कामगार विभाग

मादाम कामा रोड, हुतात्मा राजगुरु चौक, मंत्रालय,  
मुंबई ४०० ०३२, दिनांक ८ मार्च २०१३.

### शुद्धीपत्र

संदर्भ.—(१) उद्योग, ऊर्जा व कामगार विभाग, मंत्रालय, मुंबई यांची अधिसूचना क्र. युएलपी-२०१३/सं.क्र. ३९/  
प्र.क्र. २७/काम-३, दिनांक २९ जानेवारी २०१३.

(२) उद्योग, ऊर्जा व कामगार विभाग, मंत्रालय, मुंबई यांचे शुद्धीपत्रक क्र. आयसीई-१२१२/प्र.क्र. १९५/  
काम-६, दिनांक ७ फेब्रुवारी २०१३.

महाराष्ट्र कामगार संघांना मान्यता देण्याबाबत आणि अनुचित कामगार प्रथांना प्रतिबंध करण्याबाबत अधिनियम, १९७१.

क्रमांक युएलपी. २०१३/सं.क्र. ८८/प्र.क्र. ५७/काम-३.—उपरोक्त संदर्भित दिनांक २९ जानेवारी २०१३ च्या शासन अधिसूचनेमध्ये  
अनुक्रमांक २ वरील नोंद—

अ.क्र.	न्यायाधीशांचे नाव व सध्याचे पदनाम	कोणाच्या जागी	सदस्यांचे नाव व नवीन पदनाम	शासन अधिसूचना क्रमांक
(१)	(२)	(३)	(४)	(५)
१	श्रीमती पी. डी. देसाई, जिल्हा न्यायाधीश-१ आणि अतिरिक्त सत्र न्यायाधीश, कोल्हापूर.	श्री. व्ही. डब्ल्यू. हूड.	श्रीमती पी. डी. देसाई, सदस्य, औद्योगिक न्यायालय, नागपूर.	युएलपी-१०७२/काम-१, दिनांक ८ सप्टेंबर १९७५.

या ऐवजी

अ.क्र. (१)	न्यायाधीशांचे नाव व सध्याचे पदनाम (२)	कोणाच्या जागी (३)	सदस्यांचे नाव व नवीन पदनाम (४)	शासन अधिसूचना क्रमांक (५)
२	श्रीमती पी. डी. देसाई, जिल्हा न्यायाधीश-१ आणि अतिरिक्त सत्र न्यायाधीश, कोल्हापूर.	श्री. आर. एम. मुळे.	श्रीमती पी. डी. देसाई, सदस्य, औद्योगिक न्यायालय, नाशिक.	युएलपी-१०८३/७०२२/ काम-९, दिनांक १० नोव्हेंबर १९८३.

अशी वाचण्यात यावी.

महाराष्ट्राचे राज्यपाल यांच्या आदेशानुसार व नावाने,

सु. सा. चौधरी,  
कार्यासन अधिकारी.

In pursuance of Clause (3) of Article 348 of the Constitution of India, the following translation in English of the Government Notification, Industries, Energy and Labour Department, No. ULP-2013/R.N. 88/C.R. 57/Lab-3, dated the 8th March 2013, *Extra Ordinary*, is hereby published under the authority of the Governor.

By order and in the name of the Governor of Maharashtra,

S. K. GAWDE,  
Deputy Secretary to Government.

**INDUSTRIES, ENERGY AND LABOUR DEPARTMENT**

Madam Cama Road, Hutatma Rajguru Chowk, Mantralaya,  
Mumbai 400 032, dated the 8th March 2013.

**CORRIGENDUM**

- Ref.*—(1) Industries, Energy and Labour Department Notification No. ULP-2013/R.N. 39/C.R. 27/Lab-3, dated 29th January 2013.  
(2) Industries, Energy and Labour Department Corrigendum No. ICE-1212/C.R. 195/Labour-6, dated 7th February 2013.

MAHARASHTRA RECOGNITION OF TRADE UNIONS AND PREVENTION OF UNFAIR LABOUR PRACTICES ACT, 1971.

No. ULP. 2013/R.N. 88/C.R. 57/Lab-3.—The entry at Serial No. 2 in the above referred Notification at Serial No. 1 :—

Sr. No.	Judge's Name and Present Designation	On Whose Place	Member Name and New Designation	Government Notification No.
(1)	(2)	(3)	(4)	(5)
1	Ms. P. D. Desai, District Judge-1 and Additional Sessions Judge, Kolhapur.	Shri V. W. Hood.	Ms. P. D. Desai, Member, Industrial Court, Nagpur.	ULP-1072/Lab-1, dated 8th September 1975.
<i>be read as</i>				
Sr. No.	Judge's Name and Present Designation	On Whose Place	Member Name and New Designation	Government Notification No.
(1)	(2)	(3)	(4)	(5)
1	Ms. P. D. Desai, District Judge-1 and Additional Sessions Judge, Kolhapur.	Shri R. M. Muley.	Ms. P. D. Desai, Member, Industrial Court, Nashik.	ULP-1083/7022/Lab-9, dated 10th November 1983.

By order and in the name of the Governor of Maharashtra,

S. S. CHAUDHARI,  
Desk Officer.

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शुक्रवार, मार्च ८, २०१३/फाल्गुन १७, शके १९३४

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**उद्योग, ऊर्जा व कामगार विभाग**

मादाम कामा रोड, हुतात्मा राजगुरु चौक, मंत्रालय,  
मुंबई ४०० ०३२, दिनांक ८ मार्च २०१३.

**अधिसूचना**

**कामगार राज्य विमा अधिनियम, १९४८.**

क्रमांक इएसआय. २०१२/प्र.क्र. ४५/कामगार-३.—कामगार राज्य विमा अधिनियम, १९४८ (१९४८ चा ३४) च्या कलम ८७ व कलम ९१-अे अन्वये प्रदान करण्यात आलेल्या अधिकारांचा वापर करून, महाराष्ट्र शासन याद्वारे, वंडर कार्स प्रा. लि., पुणे आस्थापनेतील माजी सैनिक कर्मचाऱ्यांच्याबाबतीत दिनांक ५ मार्च २०१३ पासून दिनांक ४ मार्च २०१४ पर्यंत एक वर्षाच्या कालावधीसाठी उक्त अधिनियमाच्या अंमलबजावणीतून सूट देत आहे.

महाराष्ट्राचे राज्यपाल यांच्या आदेशानुसार व नावाने,

**सु. सा. चौधरी,**  
कक्ष अधिकारी.

In pursuance of Clause (3) of Article 348 of the Constitution of India, the following translation in English of the Government Notification, Industries, Energy and Labour Department, No. ESI. 2012/CR-45/Lab-3, dated the 8th March 2013, is published in the *Maharashtra Government Gazette*, Part I-L, under the authority of the Governor.

By order and in the name of the Governor of Maharashtra,

S. K. GAWDE,  
Deputy Secretary to Government.

**INDUSTRIES, ENERGY AND LABOUR DEPARTMENT**

Madam Cama Road, Hutatma Rajguru Chowk, Mantralaya,  
Mumbai 400 032, dated the 8th March 2013.

**NOTIFICATION**

EMPLOYEES STATE INSURANCE ACT, 1948.

No. ESI. 2012/CR-45/Lab-3.—In exercise of the powers conferred under section 87 read with section 87 and 91-A of the Employees' State Insurance Act, 1948 (34 of 1948), and at all other powers enabling in that behalf the Government of Maharashtra hereby exempts M/s. Wonder Cars Pvt. Limited, Pune from implementation of the provisions of the said Act in respect of Ex-Serviceman for the period of One Year from the date of 5th March 2013 to 4th March 2014.

By order and in the name of the Governor of Maharashtra,

S. S. CHOUDHARI,  
Desk Officer.

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सोमवार, मार्च ११, २०१३/फाल्गुन २०, शके १९३४

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**उद्योग, ऊर्जा व कामगार विभाग**

मादाम कामा रोड, हुतात्मा राजगुरु चौक, मंत्रालय,  
मुंबई ४०० ०३२, दिनांक ११ मार्च २०१३

**शुद्धिपत्र**

**संदर्भ.**— उद्योग, ऊर्जा व कामगार विभाग, मंत्रालय, मुंबई यांची अधिसूचना क्र. पीजीए ०६/१६२/काम-४, दिनांक १९ नोव्हेंबर २०११.

**उपदान प्रदान अधिनियम, १९७२.**

क्रमांक पीजीए ०६/१६६२/कामगार-४.—उपदान प्रदान अधिनियम, १९७२ (१९७२ चा ३९) मधील कलम ३ अन्वये प्रदान करण्यात आलेल्या शक्तींचा आणि अधिकारांचा वापर करण्यात येऊन यासंबंधी शासन अधिसूचना क्र. पीजीए ०६/१६६२/कामगार-४, दिनांक १९ नोव्हेंबर २०११ रोजी निर्गमित करण्यात आली. सदर अधिसूचनेमध्ये जोडलेल्या अनुसूचीतील रकाना क्र. (२) मध्ये औद्योगिक न्यायालयांची सदर अधिसूचनेतील रकाना क्र. (३) मध्ये त्यांच्या पदासमोर विनिर्दिष्ट केलेल्या स्थानिक क्षेत्रासाठी यथाक्रम ‘अपीलीय अधिकारी’ म्हणून नियुक्ती करण्यात आली आहे.

सदर अधिसूचनेच्या पृष्ठ क्र. ७ व ९ वरील अनुसूचीतील अ. क्र. १७ वर स्तंभ दोनमध्ये उल्लेख केलेल्या “भंडारा” यांचेसमोरील स्तंभ तीन मधील नमूद केलेले क्षेत्र “भंडारा जिल्हा” असे नमूद करण्यात आले आहे. **त्याऐवजी “भंडारा व गोंदिया जिल्हा” असे वाचावे.**

महाराष्ट्राचे राज्यपाल यांच्या आदेशानुसार व नावाने,

**रविकुमार पाटणकर,**  
कार्यासन अधिकारी.



In pursuance of Clause (3) of Article 348 of the Constitution of India, the following translation in English of the Government Notification, Industries, Energy and Labour Department, No. PGA-06/1662/Lab-4, dated the 11th March 2013 *Extra Ordinary* is hereby published under the authority of the Governor.

By order and in the name of the Governor of Maharashtra,

S. K. GAWDE,  
Deputy Secretary to Government.

**INDUSTRIES, ENERGY AND LABOUR DEPARTMENT**

Madam Cama Road, Hutatma Rajguru Chowk, Mantralaya,  
Mumbai 400 032, dated the 11th March 2013

**CORRIGENDUM**

*Ref.*— Industries, Energy and Labour Department Notification No. PGA-06/1662/Lab-4, dated 19th November 2011.

**PAYMENT OF GRATUITY ACT, 1972.**

No. PGA-06/1662/Lab-4.—In exercise of the powers conferred upon it by sub-section (7) of section 7 of the Payment of Gratuity Act, 1972 (39 of 1972), in its application to the State of Maharashtra has issued notification dated 19th November 2011.

In the said Notification, The Government of Maharashtra being the appropriate Government specifies the Industrial Courts mentioned in column (2) of the Schedule appended to be the Appellate Authorities for the purpose of said sub-section (7) of section 7 for the areas, respectively specified against each of them in column (3) of the Schedule.

On page No. 7 and 9 at Sr. No. 17 of schedule, area mentioned in column (3) of the schedule 'Bhandara District' shall be added district 'Gondia' and *read as* 'Bhandara' and Gondia District'.

By order and in the name of the Governor of Maharashtra,

RAVEEKUMAR PATANKAR,  
Desk Officer.

**उद्योग, ऊर्जा व कामगार विभाग**

मादाम कामा रोड, हुतात्मा राजगुरु चौक, मंत्रालय,

मुंबई ४०० ०३२, दिनांक ११ मार्च २०१३

**शुद्धिपत्र**

**संदर्भ.—** उद्योग, ऊर्जा व कामगार विभाग, मंत्रालय, मुंबई यांची अधिसूचना क्र. पीजीए ०६/१६२/काम-४, दिनांक १९ नोव्हेंबर २०११.

**उपदान प्रदान अधिनियम, १९७२.**

क्रमांक पीजीए ०६/१६६२/कामगार-४.—उपदान प्रदान अधिनियम, १९७२ (१९७२ चा ३९) मधील कलम ३ अन्वये प्रदान करण्यात आलेल्या शक्तींचा आणि अधिकारांचा वापर करण्यात येऊन यासंबंधी शासन अधिसूचना क्र. पीजीए ०६/१६६२/कामगार-४, दिनांक १९ नोव्हेंबर २०११ रोजी निर्गमित करण्यात आली. सदर अधिसूचनेमध्ये जोडलेल्या अनुसूचीतील रकाना क्र. २ मध्ये ‘ कामगार न्यायालयाच्या न्यायाधीशांना ’ सदर अधिसूचनेतील रकाना क्र. ३ मध्ये त्यांच्या पदासमोर विनिर्दिष्ट केलेल्या स्थानिक क्षेत्रासाठी यथाक्रम ‘ नियंत्रण अधिकारी ’ म्हणून नियुक्त करण्यात आले आहे.

अधिसूचनेच्या पृष्ठ क्र. २ वरील अनुसूचीच्या अ. क्र. ३ वर स्तंभ दोनमध्ये उल्लेख केलेल्या “ न्यायाधीश, १ ते ३ कामगार न्यायालय, पुणे ” ऐवजी “ न्यायाधीश, १ ते ४ कामगार न्यायालय, पुणे ” असे वाचावे.

अधिसूचनेच्या पृष्ठ क्र. २ वरील अनुसूचीच्या अ. क्र. ५ वर स्तंभ दोनमध्ये उल्लेख केलेल्या “ न्यायाधीश, १ ते २ कामगार न्यायालय, अहमदनगर ” यांचेसमोरील स्तंभ तीनमधील नमूद केलेले क्षेत्र “ कोल्हापूर, रत्नागिरी व सिंधुदुर्ग जिल्हा ” नमूद करण्यात आले आहे. त्याऐवजी “ अहमदनगर जिल्हा ” असे वाचावे.

अधिसूचनेच्या पृष्ठ क्र. २ वरील अनुसूचीच्या अ. क्र. ९ वर स्तंभ दोनमध्ये उल्लेख केलेल्या “ न्यायाधीश, कामगार न्यायालय, नाशिक ” ऐवजी “ न्यायाधीश, १ ते २ कामगार न्यायालय, नाशिक ” असे वाचावे.

अधिसूचनेच्या पृष्ठ क्र. २ वरील अनुसूचीच्या अ. क्र. १२ वर स्तंभ दोनमध्ये उल्लेख केलेल्या “ न्यायाधीश, कामगार न्यायालय, औरंगाबाद ” ऐवजी “ न्यायाधीश, १ ते २ कामगार न्यायालय, औरंगाबाद ” असे वाचावे.

सदर अधिसूचनेच्या पृष्ठ क्र. २ वरील अनुसूचीच्या अ. क्र. १७ वर स्तंभ दोनमध्ये उल्लेख केलेल्या “ न्यायाधीश, कामगार न्यायालय, चंद्रपूर ” यांचेसमोरील स्तंभ तीनमधील नमूद केलेले क्षेत्र “ चंद्रपूर जिल्हा ” नमूद करण्यात आले आहे. त्याऐवजी “ चंद्रपूर व गडचिरोली जिल्हा ” असे वाचावे.

तसेच सदर अधिसूचनेच्या पृष्ठ क्र. ४ वरील अनुसूचीच्या अ. क्र. १२ वर स्तंभ दोनमध्ये उल्लेख केलेल्या “ न्यायाधीश, कामगार न्यायालय, औरंगाबाद ” यांचेसमोरील स्तंभ तीनमधील नमूद केलेले क्षेत्र “ औरंगाबाद जिल्हा ” नमूद करण्यात आले आहे. त्याऐवजी “ औरंगाबाद व बीड जिल्हा ” असे वाचावे.

महाराष्ट्राचे राज्यपाल यांच्या आदेशानुसार व नावाने,

**रविकुमार पाटणकर,**

कार्यासन अधिकारी.

In pursuance of Clause (3) of Article 348 of the Constitution of India, the following translation in English of the Government Notification, Industries, Energy and Labour Department, No. PGA-06/1662/Lab-4, dated the 11th March 2013, *Extra Ordinary* is hereby published under the authority of the Governor.

By order and in the name of the Governor of Maharashtra,

S. K. GAWDE,  
Deputy Secretary to Government.

**INDUSTRIES, ENERGY AND LABOUR DEPARTMENT**

Madam Cama Road, Hutatma Rajguru Chowk, Mantralaya,  
Mumbai 400 032, dated the 11th March 2013

**CORRIGENDUM**

*Ref.*— Industries, Energy and Labour Department Notification No. PGA-06/1662/Lab-4, dated 19th November 2011.

**PAYMENT OF GRATUITY ACT, 1972.**

No. PGA-06/1662/Lab-4.—In exercise of the powers conferred upon it by section 3 of the Payment of Gratuity Act, 1972 (39 of 1972), in its application to, the State of Maharashtra has issued notification dated 19th November 2011.

In the said Notification, The Government of Maharashtra being the appropriate Government appointed the 'Presiding Officers' of the Labour Courts, Specified in column (2) of the schedule appended to be the 'Controlling Authorities' for the administration of the said act for the areas, respectively specified against each of them in column (3) of the schedule.

On page No. 2 at Sr. No. 3 of Schedule, area mentioned in column (2) of the schedule 'Judge, 1st to 3rd Labour Courts, Pune' shall be *read as* 'Judge, 1st to 4th Labour Court' Pune.

On page No. 2 at Sr. No. 5 of Schedule, area mentioned in column (3) of the schedule 'Kolhapur, Ratnagiri and Sindhudurg District' shall be *read as* 'Ahmednagar District'.

On page No. 2 at Sr. No. 9 of Schedule, area mentioned in column (2) of the schedule 'Judge, Labour Court, Nashik' shall be *read as* 'Judge, 1st to 2nd Labour Courts Nashik'.

On page No. 2 at Sr. No. 12 of Schedule, area mentioned in column (2) of the schedule 'Judge, Labour Court, Aurangabad' shall be *read as* 'Judge, 1st to 2nd Labour Courts Aurangabad'.

On page No. 2 at Sr. No. 17 of Schedule, area mentioned in column (3) of the schedule 'Chandrapur District' shall be *read as* 'Chandrapur and Gadchiroli District'.

On page No. 4 at Sr. No. 12 of Schedule, area mentioned in column (3) of the schedule 'Aurangabad District' shall be *read as* 'Aurangabad and Beed District'.

By order and in the name of the Governor of Maharashtra,

RAVEEKUMAR PATANKAR,  
Desk Officer.

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 सोमवार, मार्च ११, २०१३/फाल्गुन २०, शके १९३४
 

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### उद्योग, ऊर्जा व कामगार विभाग

मादाम कामा रोड, हुतात्मा राजगुरु चौक, मंत्रालय,  
मुंबई ४०० ०३२, दिनांक ११ मार्च २०१३.

### अधिसूचना

**महाराष्ट्र माथाडी, हमाल व इतर श्रमजिवी कामगार (नोकरीचे नियमन व कल्याण अधिनियम, १९६९.**

क्रमांक यूडब्ल्यूए-२०१३/प्र.क्र. ५६/कामगार-५.—महाराष्ट्र माथाडी, हमाल व इतर श्रमजिवी कामगार (नोकरीचे नियमन व कल्याण) अधिनियम, १९६९ (१९६९ चा महा. ३०), (यापुढे ‘उक्त अधिनियम’ म्हणून संबोधित केले आहे) च्या कलम ६ चे पोट-कलम (१) द्वारे प्रदान करण्यात आलेल्या अधिकारांचा आणि इतर सर्व अधिकारांचा वापर करून, महाराष्ट्र शासन, सल्लागार समितीशी सल्लामसलत करून, याद्वारे शासन अधिसूचना, उद्योग, ऊर्जा व कामगार विभाग, क्र. यूडब्ल्यूए-१३८८/(१९७३०)/कामगार-५, दिनांक ८ जुलै १९९२ मध्ये पुढीलप्रमाणे सुधारणा करित आहे :—

उक्त अधिनियमाच्या खंड (अ) च्या ऐवजी पुढीलप्रमाणे खंड समाविष्ट करण्यात येत आहे :—

“(अ) “पिंपरी-चिंचवड माथाडी आणि असंरक्षित कामगार मंडळ” या नावाने ओळखल्या जाणाऱ्या मंडळाची, खालील अनुसूचित उद्योगांसाठी व खालील तक्त्यात नमूद क्षेत्रासाठी, स्थापना करित आहे :—

### तक्ता

अ.क्र. (१)	क्षेत्र (२)
१	पिंपरी-चिंचवड महानगरपालिकेच्या क्षेत्राच्या मर्यादेत.
२	पुणे जिल्ह्याच्या मुळशी, वडगांव, मावळ, राजगुरुनगर, जुन्नर, आणि आंबेगाव या तालुक्यांच्या क्षेत्राच्या मर्यादेत.
३	पुणे जिल्ह्याच्या हवेली तालुक्याच्या चिंचवड-सर्कल (मंडल) क्षेत्राच्या मर्यादेत.
४	च्या क्षेत्राच्या मर्यादेत,— (अ) कोथरुड-सर्कल (मंडल) च्या पाषाण आणि पिंपळे निलख-सज्जा, (ब) पुणे जिल्ह्याच्या हवेली तालुक्यातील कळस-सर्कल (मंडल) च्या मोशी, चिखली, वारोली-सज्जा.
५	पुणे जिल्ह्याच्या हवेली तालुक्यातील देहू रोड कॅन्टोन्मेंट क्षेत्राच्या मर्यादेत.

१. माल भरणे, तो उतरविणे, रचणे, त्याची ने-आण करणे, त्याचे वजन व मापन करणे किंवा अशा कामाच्या पूर्व तयारीची किंवा अनुषंगिक कामे धरून, अशा प्रकारच्या इतर कामांसंबंधातील लोखंड व पोलाद बाजार किंवा दुकाने यातील नोकरी,
२. माल भरणे, तो उतरविणे, रचणे, त्याची ने-आण करणे, त्याचे वजन व (मापन करणे, फायलिंग, शिवणे, पृथःक्करण करणे, स्वच्छ करणे) किंवा अशा कामाच्या पूर्व तयारीची किंवा, अनुषंगिक कामे धरून, अशा प्रकारच्या इतर कामांसंबंधातील, उक्त अधिनियमासोबतच्या अनुसूचीच्या इतर कोणत्याही नोंदीखाली न येणारी, बाजारातील आणि कारखान्यातील व इतर आस्थापनातील नोकरी,
३. रेल्वे प्राधिकरणांकडून, जे कामावर ठेवण्यात आले नसतील अशा कामगारांकडून करण्यात येणारी, माल भरणे, तो उतरविणे, रचणे, त्याची ने-आण करणे, त्याचे वजन व मापन करणे किंवा अशा कामांच्या पूर्व तयारीची किंवा अनुषंगिक कामे धरून, अशा प्रकारच्या इतर कामांसंबंधातील, रेल्वे आवारातील किंवा मालाच्या छपऱ्यांमधील नोकरी,
४. सार्वजनिक वाहतुकीच्या वाहनात माल भरणे किंवा त्यामधून तो उतरविणे व त्या कामाशी अनुषंगिक व संबंधित असेल असे इतर कोणतेही काम या संबंधातील नोकरी,
५. माल भरणे, तो उतरविणे, रचणे, त्याची ने-आण करणे, त्याचे वजन व (मापन करणे, फायलिंग, शिवणे, पृथःक्करण करणे, स्वच्छ करणे) किंवा अशा कामाच्या पूर्व तयारीची किंवा, अनुषंगिक कामे धरून त्या संबंधातील भाजीपाला बाजारातील (कांदे व बटाटा बाजार यासह) नोकरी,
६. खोकी तयार करण्याच्या कामातील किंवा इमारती लाकूड बाजारातील नोकरी,
७. माल भरणे, तो उतरविणे, रचणे, त्याची ने-आण करणे, त्याचे वजन व (मापन करणे, फायलिंग, शिवणे, पृथःक्करण करणे, स्वच्छ करणे) किंवा अशा कामाच्या पूर्व तयारीची किंवा, अनुषंगिक कामे धरून अशा प्रकारच्या इतर कामांसंबंधातील किराणा बाजार किंवा दुकाने यातील नोकरी,
८. माल भरणे, तो उतरविणे, रचणे, त्याची ने-आण करणे, त्याचे वजन व (मापन करणे, फायलिंग, शिवणे, पृथःक्करण करणे, स्वच्छ करणे) किंवा अशा कामाच्या पूर्व तयारीची किंवा, अनुषंगिक कामे धरून अशा प्रकारच्या इतर कामांसंबंधातील, महाराष्ट्र कृषि उत्पन्न बाजार (नियमन) अधिनियम, १९६३ अंतर्गत स्थापन बाजारातील किंवा दुय्यम बाजारातील नोकरी.”.

महाराष्ट्राचे राज्यपाल यांच्या आदेशानुसार व नावाने,

सु. कि. गावडे,  
शासनाचे उप सचिव.

In pursuance of Clause (3) of Article 348 of the Constitution of India, the following translation in English of the Government Notification, Industries, Energy and Labour Department, No. UWA. 2013/C.R. 56/LAB-5, dated the 11th March 2013 is hereby published under the authority of the Governor.

By order and in the name of the Governor of Maharashtra,

S. K. GAWADE,  
Deputy Secretary to Government.

**INDUSTRIES, ENERGY AND LABOUR DEPARTMENT**

Madam Cama Road, Hutatma Rajguru Chowk, Mantralaya,  
Mumbai 400 032, dated the 11th March 2013.

**NOTIFICATION**

MAHARASHTRA MATHADI, HAMAL AND OTHER MANUAL WORKERS (REGULATIONS OF EMPLOYMENT AND WELFARE) ACT, 1969.

No. UWA. 2013/C.R. 56/Lab-5.—In exercise of the powers conferred by sub-section (1) of section 6 of the Maharashtra Mathadi, Hamal and other Manual Workers (Regulation of Employment and Welfare) Act, 1969, (Mah. XXX of 1969), (hereinafter referred to as “the said Act”) and of all other powers enabling it in this behalf, the Government of Maharashtra, after consultation with the Advisory Committee, hereby amends the Government Notification, Industries, Energy and Labour Department, No. UWA. 1388/(11730)/Lab-5, dated the 8th July 1992, as follows, namely :—

For clause (a) of the said Notification, the following clause shall be substituted, namely :—

“(a) establishes a board to be known by the name “the Pimpri-Chinchwad Mathadi and Unprotected Labour Board” for the following Scheduled Employments for the areas mentioned in the table below, namely :—

TABLE

Sr. No. (1)	Areas (2)
1.	The areas within the limits of Pimpri-Chinchwad Municipal Corporation.
2.	The areas within the limits of Mulashi, Vadgaon, Mawal, Rajgurunagar, Junnar and Ambegaon Talukas of Pune District.
3.	The areas within the limits of Chinchwad Circle (Mandal) of Haveli Taluka of Pune District.
4.	The areas within the limits of— (a) Pashan and Pimple Nilakh Sajjas of Kothrud Circle (Mandal), and (b) Moshi, Chikhali and Waroli Sajjas of Kalas Circle (Mandal) in Haveli Taluka of Pune District.
5.	The areas within the limits of Dehu Road Cantonment in Haveli Taluka of Pune District.

1. Employment in Iron and Steel Markets or Shops in connection with loading, unloading, stacking, carrying, weighing, measuring or such other works including works preparatory or incidental to such operations;

2. employment in Markets and Factories and other establishments, in connection with loading, unloading, stacking, carrying, weighing, measuring, filling, stitching, sorting, cleaning or such other works including works preparatory or incidental to such operations carried out by workers not covered by any other entries in the schedule appended to the said Act ;

3. employment in Railway Yards and Goods Sheds in connection with loading, unloading, stacking, carrying, weighing, measuring or such other works preparatory or incidental to such operations by workers, who are not employed by Railway Authority ;

4. employment in connection with loading of goods into public transport vehicles or unloading of any goods therefrom and any other operations incidental and connected thereto ;

5. employment in Vegetable Markets (including Onion and Potato Markets), in connection with loading, unloading, stacking, carrying, weighing, measuring, filling, stitching, sorting, cleaning or such other works including works preparatory or incidental to such operations ;

6. employment in Khoka Making and Timber Market ;

7. employment in Grocery Markets or Shops, in connection with loading, unloading, stacking, carrying, weighing, measuring, filling, stitching, sorting, cleaning or such other works including works preparatory or incidental to such operations ;

8. employment in Markets or subsidiary markets established under the Maharashtra Agricultural Produce Marketing (Regulation) Act, 1963, in connection with loading, unloading, stacking, carrying, weighing, measuring, filling, stitching, sorting, cleaning or such other works including works preparatory or incidental to such operations.”.

By order and in the name of the Governor of Maharashtra,

S. K. GAWADE,  
Deputy Secretary to Government.

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गुरुवार, मार्च १४, २०१३/फाल्गुन २३, शके १९३४

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**उद्योग, ऊर्जा व कामगार विभाग**

मादाम कामा रोड, हुतात्मा राजगुरु चौक, मंत्रालय,  
मुंबई ४०० ०३२, दिनांक १४ मार्च २०१३

**अधिसूचना**

**महाराष्ट्र दुकाने व आस्थापना अधिनियम, १९४८.**

क्रमांक बीएसई. १०/२०१०/प्र.क्र. ३२७/कामगार-१०.—महाराष्ट्र दुकाने व आस्थापना अधिनियम, १९४८ (सन १९४८ चा महा. एकोणऐंशी), (यात यापुढे ज्याचा “उक्त अधिनियम” असा उल्लेख करण्यात आलेला आहे.) यांच्या कलम ४ परंतुकाद्वारे प्रदान करण्यात आलेल्या अधिकारांचा वापर करून, महाराष्ट्र शासन याद्वारे, उक्त अधिनियमाच्या अनुसूची दोन मध्ये खालीलप्रमाणे सुधारणा करीत आहे :—

उक्त अधिनियमाच्या अनुसूची दोन मधील क्रमांक “६१०” नंतर खालील नोंदीचा समावेश करण्यात येईल :—

- “ ६११ मे. लक्षदीप रेस्टॉरंट अँड बार, उक्त अधिनियमाच्या कलम १९ व कलम ३३(३) मधून खालील शर्तीच्या अधीन एचडलब्युजी, १५-१-आयसी, गजधर बंध राहून :—  
रोड, सांताक्रुझ (प.), मुंबई ४०० ०५४.
- (१) सदर सूट ही शासन राजपत्रात अधिसूचना प्रसिद्ध झाल्याच्या दिनांकापासून तीन वर्षांच्या कालावधीकरिता लागू राहील.
  - (२) आस्थापना कोणत्याही दिवशी पहाटे ३-०० नंतर उघडी राहणार नाही.
  - (३) कर्मचाऱ्यास दररोज ९ तास किंवा आठवड्यामध्ये ४८ तासांपेक्षा जास्त काम करणे आवश्यक असणार नाही व दररोजच्या कामाची व्याप्ती १२ तासांपेक्षा जास्त असणार नाही.
  - (४) प्रत्येक कर्मचाऱ्यास त्याच्या वेतनातून कुठल्याही प्रकाराची कपात न करता आठवड्यातून एक दिवस भरपगारी सुट्टी देण्यात यावी व सुट्टीसंबंधीचे प्रत्येक महिन्याचे वेळापत्रक सूचना फलकावर आगाऊ लावण्यात यावे.
  - (५) कोणत्याही कर्मचाऱ्यास त्याच्या अतिकालिक कामाबद्दल कलम ६३ मध्ये विहित केलेल्या दराने अधिक वेतन देण्यात यावे.
  - (६) प्रत्येक कर्मचाऱ्यास सलग पाच तास काम केल्यावर एक तासाची विश्रांती देण्यात यावी.



- (७) कर्मचाऱ्यांना राष्ट्रीय व सणाच्या सुट्ट्या देण्यात याव्यात.
- (८) प्रत्येक कर्मचाऱ्यास आस्थापनेकडून कलम २५ नुसार ओळखपत्र देण्यात यावे.
- (९) महिला कर्मचाऱ्यांसाठी कामाच्या ठिकाणी स्वतंत्र लॉकर व विश्रांतीगृह यांची व्यवस्था करण्यात यावी.
- (१०) ज्या महिला कर्मचाऱ्यांची कामाची वेळ संध्याकाळी ६-३० नंतर व सकाळी ६-०० पूर्वी सुरू होते. त्यांना त्यांच्या निवासस्थानापासून आस्थापनेपर्यंत व परतीसाठी सुरक्षारक्षकासह मोफत वाहनाची व्यवस्था करण्यात येईल.
- (११) महिला कर्मचाऱ्यांना रात्री गटागटाने काम देण्यात यावे.
- (१२) महिला कर्मचाऱ्यांना एक आठवड्यापेक्षा अधिक काळ रात्रपाळी देण्यात येणार नाही.
- (१३) महिला कर्मचाऱ्यांना हाऊसकिपिंग डिपार्टमेंट, उपाहारगृहाचे दर्शनी कार्यालय या व्यतिरिक्त इतर भागात काम करण्याची मुभा देण्यात येऊ नये.
- (१४) सदर सूट ही मुंबई दुकाने व आस्थापना अधिनियम, १९४८ पुरतीच मर्यादित आहे.
- (१५) वरील अटी व शर्ती व्यतिरिक्त अधिनियमातील इतर तरतुदी आस्थापनेस यथास्थिती लागू राहतील.
- (१६) वरीलपैकी कोणत्याही अटीचा व शर्तीचा भंग झाल्यास सूट आपोआप रद्द होईल.”

महाराष्ट्राचे राज्यपाल यांच्या आदेशानुसार व नावाने,

ना. द. थोरवे,  
कार्यासन अधिकारी.

In pursuance of Clause (3) of Article 348 of the Constitution of India, the following translation in English of the Government Notification, Industries, Energy and Labour Department, No. BSE. 10/2010/C.R. 327/LAB-10, dated the 14th March 2013 is hereby published under the authority of the Governor.

By order and in the name of the Governor of Maharashtra,

S. K. GAWDE,  
Deputy Secretary to Government.

### INDUSTRIES, ENERGY AND LABOUR DEPARTMENT

Madam Cama Road, Hutatma Rajguru Chowk, Mantralaya,  
Mumbai 400 032, dated the 14th March 2013

#### NOTIFICATION

MAHARASHTRA SHOPS AND ESTABLISHMENT ACT, 1948.

No. BSE. 10/2010/C.R. 327/Lab-10.—In exercise of the powers conferred by the proviso to Section 4 of the Maharashtra Shops and Establishment Act, 1948 (Mah. LXXIX of 1948), (hereinafter referred to as the “said Act”), the Government of Maharashtra hereby amends Schedule II of the said Act as follows, namely :—

In Schedule II of the said Act, after entry “610” the following entry shall be added namely :—

- |  |  |
|--|--|
| <p>“ 611     M/s. Lakshdeep Restaurant and Bar, HWG, 15-1-IC, Gazdar Bandh Road, Santacruz (W.), Mumbai 400 054.</p> | <p>Section 19 and 33(3) subject to the following condition :—</p> <ol style="list-style-type: none"> <li>(1) This exemption shall remain in operation for the period of three years from the date of Notification published in <i>Government Gazette</i>.</li> <li>(2) The establishment shall not remain open on any day later than 3-00 a.m.</li> <li>(3) No employee shall be required to work for more than 9 hours in a day or 48 hours in a week. The spread over of an employee shall not exceed 12 hours in a day.</li> <li>(4) Every employee shall be given one day holiday in a week without making any deductions from his/her wages on account thereof and list of the time table of such holidays for a month shall be placed on the notice board in advance.</li> <li>(5) The employees shall be entitled to overtime wages in accordance with Section 63 of the said Act.</li> <li>(6) Every employee shall be given a rest period of one hour after 5 hours of continuous work.</li> <li>(7) Employees shall be given national and festival holidays.</li> <li>(8) Every employee shall be provided Identity Card, according to the Section 25.</li> <li>(9) Female employees shall be provided separate lockers and rest rooms at the work place.</li> </ol> |
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- (10) The Female employees who are required to work after 6-30 p.m. and before 6-00 a.m. shall be provided them escorted transport facility from resident to establishment and return.
- (11) Female employees shall be given work in group at night
- (12) Female employees shall not be given night duty for more than one week.
- (13) Female employee shall not allow to work in other part of restaurant except housekeeping department, entrance office of restaurant.
- (14) This exemption is related only to Bombay Shops and Establishment Act, 1948.
- (15) Inspite of these terms and conditions, all the provisions of this Act shall applicable to the establishment duly.
- (16) In case of violation of any of the above terms and conditions, the exemption shall stand cancelled automatically.”

By order and in the name of the Governor of Maharashtra,

N. D. THORVE,  
Section Officer.

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गुरुवार, मार्च १४, २०१३/फाल्गुन २३, शके १९३४

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**उद्योग, ऊर्जा व कामगार विभाग**

मादाम कामा रोड, हुतात्मा राजगुरु चौक, मंत्रालय,  
मुंबई ४०० ०३२, दिनांक १४ मार्च २०१३

**अधिसूचना**

**महाराष्ट्र दुकाने व आस्थापना अधिनियम, १९४८.**

क्रमांक बीएसई. ०८/२०१०/प्र.क्र. २६१अ/कामगार-१०.—महाराष्ट्र दुकाने व आस्थापना अधिनियम, १९४८ (सन १९४८ चा महा. एकोणऐंशी) (यात यापुढे ज्याचा “उक्त अधिनियम” असा उल्लेख करण्यात आलेला आहे.) यांच्या कलम ४ च्या परंतुकाद्वारे प्रदान करण्यात आलेल्या अधिकाराचा वापर करून, महाराष्ट्र शासन याद्वारे, उक्त अधिनियमाच्या अनुसूची दोन मध्ये खालीलप्रमाणे सुधारणा करीत आहे :—

उक्त अधिनियमाच्या अनुसूची दोन मधील क्रमांक “६११” नंतर खालील नोंदीचा समावेश करण्यात येईल :—

“ ६१२ मे. चायना गेट रेस्टॉरंट ॲण्ड बार,  
चिंचोली बंदर नाका, मालाड (प.),  
मुंबई ४०० ०६४.

उक्त अधिनियमाच्या कलम १९ व कलम ३३(३) मधून खालील शर्तीच्या अधीन राहून :—

- (१) सदर सूट ही **शासन राजपत्रात** अधिसूचना प्रसिद्ध झाल्याच्या दिनांकापासून तीन वर्षांच्या कालावधीकरिता लागू राहील.
- (२) आस्थापना कोणत्याही दिवशी पहाटे ३-०० नंतर उघडी राहणार नाही.
- (३) कर्मचाऱ्यास दररोज ९ तास किंवा आठवड्यामध्ये ४८ तासांपेक्षा जास्त काम करणे आवश्यक असणार नाही व दररोजच्या कामाची व्याप्ती १२ तासांपेक्षा जास्त असणार नाही.
- (४) प्रत्येक कर्मचाऱ्यास त्याच्या वेतनातून कुठल्याही प्रकाराची कपात न करता आठवड्यातून एक दिवस भरपगारी सुट्टी देण्यात यावी व सुट्टीसंबंधीचे प्रत्येक महिन्याचे वेळापत्रक सूचना फलकावर आगाऊ लावण्यात यावे.
- (५) कोणत्याही कर्मचाऱ्यास त्याच्या अतिकालिक कामाबद्दल कलम ६३ मध्ये विहित केलेल्या दराने अधिक वेतन देण्यात यावे.
- (६) प्रत्येक कर्मचाऱ्यास सलग पाच तास काम केल्यावर एक तासाची विश्रांती देण्यात यावी.

- (७) कर्मचाऱ्यांना राष्ट्रीय व सणाच्या सुट्ट्या देण्यात याव्यात.
- (८) प्रत्येक कर्मचाऱ्यास आस्थापनेकडून कलम २५ नुसार ओळखपत्र देण्यात यावे.
- (९) महिला कर्मचाऱ्यांसाठी कामाच्या ठिकाणी स्वतंत्र लॉकर व विश्रांतीगृह यांची व्यवस्था करण्यात यावी.
- (१०) ज्या महिला कर्मचाऱ्यांची कामाची वेळ संध्याकाळी ६-३० नंतर व सकाळी ६-०० पूर्वी सुरू होते, त्यांना त्यांच्या निवासस्थानापासून आस्थापनेपर्यंत व परतीसाठी सुरक्षा रक्षकासह मोफत वाहनाची व्यवस्था देण्यात येईल.
- (११) महिला कर्मचाऱ्यांना रात्री गटागटाने काम देण्यात यावे.
- (१२) महिला कर्मचाऱ्यांना एक आठवड्यापेक्षा अधिक काळ रात्रपाळी देण्यात येणार नाही.
- (१३) महिला कर्मचाऱ्यांना हाऊसकिपिंग डिपार्टमेंट, उपाहारगृहाचे दर्शनी कार्यालय या व्यतिरिक्त इतर भागात काम करण्याची मुभा देण्यात येऊ नये.
- (१४) सदर सूट ही मुंबई दुकाने व आस्थापना अधिनियम, १९४८ पुरतीच मर्यादित आहे.
- (१५) वरील अटी व शर्ती व्यतिरिक्त अधिनियमातील इतर तरतुदी आस्थापनेस यथास्थिती लागू राहतील.
- (१६) वरीलपैकी कोणत्याही अटीचा व शर्तीचा भंग झाल्यास सूट आपोआप रद्द होईल.

महाराष्ट्राचे राज्यपाल यांच्या आदेशानुसार व नावाने,

ना. द. थोरवे,  
कार्यासन अधिकारी.

In pursuance of Clause (3) of Article 348 of the Constitution of India, the following translation in English of the Government Notification, Industries, Energy and Labour Department, No. BSE. 08/2010/C.R. 261A/LAB-10, dated the 14th March 2013 is hereby published under the authority of the Governor.

By order and in the name of the Governor of Maharashtra,

S. K. GAWDE,  
Deputy Secretary to Government.

### **INDUSTRIES, ENERGY AND LABOUR DEPARTMENT**

Madam Cama Road, Hutatma Rajguru Chowk, Mantralaya,  
Mumbai 400 032, dated the 14th March 2013.

#### **NOTIFICATION**

MAHARASHTRA SHOPS AND ESTABLISHMENT ACT, 1948.

No. BSE. 08/2010/C.R. 261 A/Lab-10.—In exercise of the powers conferred by the proviso to Section 4 of the Maharashtra Shops and Establishment Act, 1948 (Mah. LXXIX of 1948) hereinafter referred to as the said Act the Government of Maharashtra hereby amends Schedule II of the said Act as follows, namely :—

In Schedule II of the said Act, after entry “611” the following Entry shall be added namely :—

- |   |  |
|---|--|
| <p>“612 M/s. Chinagate Restaurant and Bar, Chincholi Bunder Naka, Malad (W.), Mumbai 400 064.</p> | <p>Section 19 and 33(3) subject to the following condition :—</p> <ol style="list-style-type: none"> <li>(1) This exemption shall remain in operation for the period of three years from the date of Notification published in <i>Government Gazette</i>.</li> <li>(2) The establishment shall not remain open on any day later than 3-00 a.m.</li> <li>(3) No employee shall be required to work for more than 9 hours in a day or 48 hours in a week. The spread over of an employee shall not exceed 12 hours in a day.</li> <li>(4) Every employee shall be given one day holiday in a week without making any deductions from his/her wages on account thereof and list of the time table of such holidays for a month shall be placed on the notice board in advance.</li> <li>(5) The employees shall be entitled to overtime wages in accordance with Section 63 of the said Act.</li> <li>(6) Every employee shall be given a rest period of one hour after 5 hours of continuous work.</li> <li>(7) Employees shall be given national and festival holidays.</li> <li>(8) Every employee shall be provided Identity Card, according to the Section 25.</li> <li>(9) Female employees shall be provided separate lockers and rest rooms at the work place.</li> </ol> |
|---|--|

- (10) The Female employees who are required to work after 6-30 p.m. and before 6-00 a.m. shall be provided them escorted transport facility from resident to establishment and return.
- (11) Female employees shall be given work in group at night.
- (12) Female employees shall not be given night duty for more than one week.
- (13) Female employees shall not allow to work in other part of restaurant except housekeeping department, entrance office of restaurant.
- (14) This exemption is related only to Bombay Shops and Establishment Act, 1948.
- (15) In spite of these terms and conditions, all the provisions of this Act shall be applicable to the establishment duly.
- (16) In case of violation of any of the above terms and conditions, the exemption shall stand cancelled automatically."

By order and in the name of the Governor of Maharashtra,

N. D. THORVE,  
Section Officer.

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शनिवार, मार्च १६, २०१३/फाल्गुन २५, शके १९३४

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### उद्योग, ऊर्जा व कामगार विभाग

मादाम कामा रोड, हुतात्मा राजगुरु चौक, मंत्रालय,  
मुंबई ४०० ०३२, दिनांक १६ मार्च २०१३.

### अधिसूचना

#### महाराष्ट्र दुकाने व आस्थापना अधिनियम, १९४८.

क्रमांक बीएसई. ०९/२०१२/प्र.क्र. २२९/कामगार-१०.— महाराष्ट्र दुकाने व आस्थापना अधिनियम, १९४८ (सन १९४८ चा महा. एकोणऐशी) (यात यापुढे ज्याचा “उक्त अधिनियम” असा उल्लेख करण्यात आलेला आहे) यांच्या कलम ४ च्या परंतुकाद्वारे प्रदान करण्यात आलेल्या अधिकाराचा वापर करून, महाराष्ट्र शासन याद्वारे, उक्त अधिनियमाच्या अनुसूची दोन मध्ये खालीलप्रमाणे सुधारणा करीत आहे :—

उक्त अधिनियमाच्या अनुसूची दोन मधील क्रमांक “६१२” नंतर खालील नोंदीचा समावेश करण्यात येईल :—

“६१३ मे. गांगर ऑप्टीशियन्स प्रा. लि.,  
प्लॉट नं. १९ (७), दुसरा मजला, कमलेश  
बिल्डिंग, आर. ए. किडवई रोड, वडाळा (प.),  
मुंबई ४०० ०३१.

- (१) एम्पायर महल, दादर टी. टी., मुंबई ४०० ०१४.
- (२) शांती सेंटर, सेक्टर-१७, वाशी,  
नवी मुंबई ४०० ७०५.
- (३) शॉप नं. ११, चिनाय मॅन्शन, केम्स  
कॉर्नरजवळ, वार्डन रोड, मुंबई ४०० ०३६.
- (४) तळमजला, विक्रम अपार्टमेंट, दुकान नं. २  
आणि ३, एल. टी. रोड, टीबीझेडसमोर,  
बोरीवली (प.), मुंबई ४०० ०९२.
- (५) निहारीका शॉपींग, तळमजला, दुकान  
नं. ८/९, ग्लॅंड ऑलवारीस रोड, पोखरण  
रोड नं. ११ जवळ, ठाणे (प.) ४०० ६०१.

उक्त अधिनियमाच्या कलम १८ मधून खालील शर्तीच्या अधीन  
राहून :—

- (१) सदर सूट ही शासन राजपत्रात अधिसूचना प्रसिद्ध झाल्याच्या  
दिनांकापासून पाच वर्षांच्या कालावधीकरिता लागू राहील.
- (२) कर्मचाऱ्यास दररोज ९ तास किंवा आठवड्यामध्ये ४८  
तासांपेक्षा जास्त काम करणे आवश्यक असणार नाही व  
दररोजच्या कामाची व्याप्ती १२ तासांपेक्षा जास्त असणार  
नाही.
- (३) प्रत्येक कर्मचाऱ्यास त्याच्या वेतनातून कुठल्याही प्रकारची  
कपात न करता आठवड्यातून एक दिवस भरपगारी सुट्टी  
देण्यात यावी व सुट्टीसंबंधीचे प्रत्येक महिन्याचे वेळापत्रक  
सूचना फलकावर आगाऊ लावण्यात यावे.
- (४) प्रत्येक कर्मचाऱ्यास सलग पाच तास काम केल्यावर १  
तासाची विश्रांती देण्यात यावी.



- (६) दुकान नं. १, कपिश बिल्डिंग, ए-१, एम. जी. रोड, मुलुंड (प.), मुंबई ४०० ०८०.
- (७) लिओ टेलर, सुवरत अपार्टमेंट, श्री भवानी चौक, टेंभी नाका, ठाणे (प.), ४०० ६०२.
- (८) अॅस्पायर प्राईड, प्लॉट-२२७, ५, तळमजला, एमटीएनएल रोड, रुपाली सिनेमाजवळ, पनवेल ४१० २०६.
- (९) श्री अंबिका अपार्टमेंट्स, दुकान नं. ७ व ८, सेक्टर ४२ए, प्लॉट नं. १०, सीवुड्स, नेरुळ (प.), नवी मुंबई ४०० ७०६.
- (१०) वल्लभ कुटीर, क्रिष्णा सिनेमासमोर, आर. पी. रोड, शिवाजी चौक, कल्याण (प.), ४२१ ३०१.
- (११) सेंट्रियम, बिल्डिंग नं. २, शॉप नं. ३८ व ३९, सेक्टर ४, आकुर्ली व्हिलेज, लोखंडवाला टाऊनशीप, कांदिवली (पूर्व), मुंबई ४०० १०१.
- (१२) दुकान नं. ४, इशान आर्केड, बिल्डिंग नं. १, गोखले रोड, गावदेवी मंदिरासमोर, नवपाडा, ठाणे (प.), ४०० ६०२.
- (१३) सेंट्रल अॅव्हेन्यू, लॅमिंग्टन रोड, शगुन हॉटेलसमोर, मुंबई सेंट्रल, मुंबई ४०० ००८.
- (१४) दुकान नं. १ व २, केशव श्रृष्टी, एल.बी.एस. मार्ग, स्टेशन रोड, भांडूप (प.), मुंबई ४०० ०७८.
- (१५) दुकान नं. १, सिटी पार्क शॉपिंग, हिरानंदानी बिझनेस पार्क, पवई, मुंबई ४०० ०७६.
- (१६) दुकान नं. १ व २, प्लॉट नं. ३, किर्ती मनोर, एस. व्ही. रोड, सांताक्रुझ (प.), मुंबई ४०० ०५४.
- (१७) असेब्ली अॅण्ड प्रोसेसिंग युनिट-११४, ११५, बुस्सा इंडस्ट्रियल इस्टेट, सॅच्युरी बाजाराजवळ, प्रभादेवी, दादर, मुंबई ४०० ०२५.
- (१८) वेअरहाऊस ११२, ११३, बुस्सा इंडस्ट्रियल इस्टेट, सॅच्युरी बाजाराजवळ, प्रभादेवी, दादर, मुंबई ४०० ०२५.
- (१९) दुकान नं. ३ व ४, दत्तात्रय महाराज को-ऑ. हाऊसिंग सोसायटी, सेक्टर-८, ऐरोली, नवी मुंबई ४०० ७०८.
- (२०) दुकान नं. १, २ व १५, सावंत आर्केड, शिव मंदिर रोड, अंबरनाथ (पूर्व), ठाणे ४२१ ५०१.
- (२१) १०९, १ ला मजला, ड्रीम हेक्न, प्लॉट नं. १८, सेक्टर २५, सीवुड्स रेल्वे स्टेशनसमोर, नेरुळ (पूर्व), नवी मुंबई ४१० २१०.
- (५) कोणत्याही कर्मचाऱ्यास त्याच्या अतिकालिक कामाबद्दल कलम ६३ मध्ये विहित केलेल्या दराने अधिक वेतन देण्यात यावे.
- (६) आस्थापना रात्री ८-३० नंतर उघडी राहणार नाही.
- (७) महिला कर्मचाऱ्यांसाठी स्वतंत्र लॉकर, सुरक्षा व विश्रांतीगृह यांची व्यवस्था करण्यात यावी.
- (८) सदर सूट ही महाराष्ट्र दुकाने व आस्थापना अधिनियम, १९४८ पुरतीच मर्यादित आहे.
- (९) वरील अटी व शर्तीव्यतिरिक्त अधिनियमातील इतर तरतुदी आस्थापनेस यथास्थिती लागू राहतील.
- (१०) वरीलपैकी कोणत्याही अटीचा व शर्तीचा भंग झाल्यास सूट आपोआप रद्द होईल.”.

- (२२) दुकान नं. ३, वेदास सेंटर, डी. पी. रोड, शिवसागर हॉटेलच्या पुढे, परिहार चौकाजवळ, औंध, पुणे ४११ ००७.
- (२३) दुकान नं. ३, हरी ओम रेसिडेन्सी को-ऑ. हा. सो. लि., शिवाजी चौकासमोर, कासार आळी, भिवंडी, जि. ठाणे ४२१ ३०८.
- (२४) दुकान नं. २, एस. नं. ५८८, न्यूएरा सोसायटी, ५८८/५ए, गगन विहार चौक, गंगाधाम सोसायटीजवळ, कोंढवा रोड, बिबवेवाडी, पुणे ४११ ०३७.
- (२५) पी-०२/३५ व ३६, हार्मनी प्लाझा, स्टेट बँक ऑफ इंडियासमोर, बोईसर-तारापूर रोड, बोईसर (प.), जि. ठाणे ४०१ ५०१.
- (२६) दुकान नं. १४, राजहंस हॉटेल बिल्डिंग, प्लॉट नं. १५/१६, एन. जी. आचार्य मार्ग, चेंबूर रेल्वे स्टेशनसमोर, चेंबूर (पूर्व), मुंबई ४०० ०७१.
- (२७) दुकान नं. २, प्लॉट नं. १३, शिला महल, १ ली पास्ता लेन, शहीद भगतसिंग मार्ग, कुलाबा, मुंबई ४०० ००५.
- (२८) दुकान नं. ६ व ७, न्यू छेडा निवास, फडके रोड, न्यू मॉडर्न कॅफेसमोर, डोंबिवली (पूर्व), जि. ठाणे ४२१ २०१.
- (२९) दुकान नं. एफ ६५, आर. मॉल, एल.बी.एस. मार्ग, घाटकोपर (प.), मुंबई ४०० ०७५.
- (३०) मंत्री बिल्डिंग, ११९/१२१, जे. एस. एस. रोड, गिरगाव, मुंबई ४०० ००४.
- (३१) दुकान नं. ३ व ४, राजयोग अपार्टमेंट, ६० फिट रोड, भाईंदर (प.), जि. ठाणे ४०१ १०१.
- (३२) दुकान नं. ३, सुशिला को-ऑ. हा. सोसायटी, 'बी' विंग, ४५, ४६/४, नाल स्टॉपजवळ, एरंडवन, कर्वे रोड, पुणे ४११ ००४.
- (३३) दुकान नं. १५, १६ व २२, बिल्डिंग नं. ३, शेलार पार्क, खडकपाडा, कल्याण (प.), जि. ठाणे ४२१ ३०१.
- (३४) दुकान नं. १, निल सिद्धी आर्केड, प्लॉट नं. ई/१ए, केंद्रीय विहार कॉलनीसमोर, सेक्टर-१२, खारघर, नवी मुंबई ४१० २१०.
- (३५) अमर हाऊस को-ऑ. हा. सो. लि., प्लॉट नं. ९८, सेक्टर-७, कोपरखैरणे, नवी मुंबई ४०० ७०९.
- (३६) दुकान नं. २, तळमजला, अशोका विजय संकुल, ३२६, एम. जी. रोड, पुणे ४११ ००१.

- (३७) बी-३१, अमरपाली बिल्डिंग, सेक्टर-११,  
शांती नगर, मिरा रोड (पूर्व),  
जि. ठाणे ४०१ १०७.
- (३८) वरांदा, ब्लॉक-बी, शगुन चौकाजवळ, पिंपरी,  
पुणे ४११ ०१७.
- (३९) दुकान नं. २, वैभव बिल्डिंग, माणपाडा रोड,  
डोंबिवली (पूर्व), जि. ठाणे ४२१ २०१.
- (४०) दुकान नं. ७, एव्हरशार्इन मारव्हेल को-ऑ.  
हा. सो., एव्हरशार्इन सिटी, ब्रॉडवे सिनेमासमोर,  
वसई (पूर्व), जि. ठाणे ४०१ २०८.
- (४१) दुकान नं. १ व २, पार्श्व पद्मावती, साई  
नगर कॉर्नर, अंबाडी रोड, गुरुद्वारासमोर,  
नवघर, वसई (प.), जि. ठाणे ४०१ २०२.
- (४२) दुकान नं. १, २, न्यू सोनल सोसायटी, आगाशी  
रोड, विरार (प.), जि. ठाणे ४०१ ३०३.

महाराष्ट्राचे राज्यपाल यांच्या आदेशानुसार व नावाने,

ना. द. थोरवे,  
कार्यासन अधिकारी.

In pursuance of Clause (3) of Article 348 of the Constitution of India, the following translation in English of the Government Notification, Industries, Energy and Labour Department, No. BSE. 09/2012/C.R. 229/LAB-10, dated the 16th March 2013 is hereby published under the authority of the Governor.

By order and in the name of the Governor of Maharashtra,

S. K. GAWADE,  
Deputy Secretary to Government.

## INDUSTRIES, ENERGY AND LABOUR DEPARTMENT

Mantralaya, Mumbai 400 032, dated the 16th March 2013.

### NOTIFICATION

MAHARASHTRA SHOPS AND ESTABLISHMENT ACT, 1948.

No. BSE. 09/2012/C.R. 229 /Lab-10.—In exercise of the powers conferred by the proviso to Section 4 of the Maharashtra Shops and Establishment Act, 1948 (Mah. LXXIX of 1948) hereinafter referred to as the said Act, the Government of Maharashtra hereby amends Schedule II of the said Act as follows, namely :—

In Schedule II of the said Act, after entry “612” the following Entry shall be added namely :—

- |  |   |
|--|---|
| <p>“613 The following shops of M/s. Gangar Opticians Pvt. Ltd., Plot No. 19(7), 2nd floor, Kamlesh Building, R. A. Kidwai Road, Wadala (W.), Mumbai 400 031.</p> <ol style="list-style-type: none"> <li>(1) Empire Mahal, Dadar T. T., Mumbai 400 014.</li> <li>(2) Shanti Centre, Sector-17, Vashi, Navi Mumbai 400 705.</li> <li>(3) Shop No.11, Chinoy Mansion, Near Kemps Corner, Warden Road, Mumbai-400 036.</li> <li>(4) Gr. Floor, Vikram Apartment, Shop 2 and 3, L.T.Road, Opp.TBZ, Borivali(West), Mumbai 400 092.</li> <li>(5) Niharika Shopping, Gr.Flr., Shop No.8/9, Gland Alwares Road, Off Pokharan Road No. 11, Thane (West), 400 601.</li> <li>(6) Shop No. 1, Kapeesh Building, A 1, M. G. Road, Mulund (West), Mumbai 400 080.</li> <li>(7) LEO Tailer, Suvrat Aprtment, Shree Bhavani Chowk, Tembhi Naka, Thane (West) 400602.</li> <li>(8) Aaspire Pride, Plot 227, 5 Ground Floor, MTNL Road, Near Rupali Cinema, Panvel 410 206.</li> </ol> | <p>Section 18 subject to the following condition :—</p> <ol style="list-style-type: none"> <li>(1) This exemption shall remain in operation for the period of five years from the date of Notification published in <i>Government Gazette</i>.</li> <li>(2) No employee shall be required to work for more than 9 hours in a day or 48 hours in a week. The spread over of an employee shall not exceed 12 hours in a day.</li> <li>(3) Every employee shall be given one day holiday in a week without making any deductions from his/her wages on account thereof and list of the time table of such holidays for a month shall be placed on the notice board in advance.</li> <li>(4) Every employee shall be given a rest period of one hour after 5 hours of continuous work.</li> <li>(5) The employees shall be entitled to overtime wages in accordance with Section 63 of the said Act.</li> <li>(6) The establishment shall not remain open later than 8-30 p.m.</li> <li>(7) Female employees shall be provided separate lockers and rest rooms at the work place.</li> <li>(8) This exemption is related only to Bombay Shops and Establishment Act, 1948.</li> </ol> |
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- (9) Shree Ambika Apartments, Shop No. 7 and 8, Sector 42A, Plot-10, Seawoods, Nerul (West), Navi Mumbai 400 706.
  - (10) Vallabh Kutir, Opp. Krishna Cinema, R. P. Road, Shivaji Chowk, Kalyan (W.) 421 301.
  - (11) Centrium, Building No. 2, Shop 38 and 39, Sector 4, Akurli Village, Lokhandwala Township, Kandivali (E), Mumbai 400 101.
  - (12) Shop No. 4, Ishan Arcade, Building No. 1, Gokhale Road, Opp. Gaondevi Mandir, Navpada, Thane (West) 400 602.
  - (13) Central Avenue, Lamington Road, Opp. Shagun Hotel, Mumbai Central, Mumbai 400 008.
  - (14) Shop No. 1 and 2, Keshav Shrushti, L.B.S. Marg, Station Road, Bhandup (West), Mumbai 400 078.
  - (15) Shop No. 1, City Park Shopping, Hiranandani Business Park, Powai, Mumbai 400 076.
  - (16) Shop No. 1 and 2, Plot No. 3, Kirti Manor, S. V. Road, Santacruz (West), Mumbai 400 054.
  - (17) Assembly and processing Unit 114, 115 Bussa Industrial Estate, Near Century Bazar, Prabhadevi, Dadar, Mumbai 400 025.
  - (18) Warehouse 112, 113, Bussa Industrial Estate, Near Century Bazar, Prabhadevi, Dadar, Mumbai 400 025.
  - (19) Shop No. 3 and 4, Dattatray Maharaj C.H.S., Sector-8, Airoli, Navi Mumbai 400 708.
  - (20) Shop No. 1, 2 and 15, Sawant Arcade, Shiv Mandir Road, Ambernath (East), Thane 421 501.
- (9) Inspite of these terms and conditions, all the provisions of this Act shall applicable to the establishment duly.
  - (10) In case of violation of any of the above terms and conditions, the exemption shall stand cancelled authomatically.”

- (21) 109, 1st Floor, Dream Heaven, Plot No. 18, Sector 25, Opp. Seawoods Railway Station, Nerul (East), Navi Mumbai 410 210.
- (22) Shop No. 3, Vedas Centre, D. P. Road, Next to Shivsagar Hotel, Near Parihar Chowk, Aundh, Pune 411 007.
- (23) Shop No. 3, Hari OM Residency C.H.S. Ltd., Opp. Shivaji Chowk, Kasar Ali, Bhiwandi, Dist. Thane 421 308.
- (24) Shop No. 2, S. No. 588, New ERA Society, 588/5A, Gagan Vihar Chowk, Near Gangadham Society, Kondhwa Road, Bibve Wadi, Pune 411 037.
- (25) P-02/35 and 36, Harmony Plaza, Opp. State Bank of India, Boisar-Tarapur Road, Boisar (West), Dist. Thane 401 501.
- (26) Shop No. 14, Rajhans Hotel Building, Plot No. 15/16, N. G. Acharya Marg, Opp. Chembur Railway Station, Chembur (East), Mumbai 400 071.
- (27) Shop No. 2, Plot No. 13, Sheila Mahal, 1st Pasta Lane, Shahid Bhagatsingh Marg, Colaba, Mumbai 400 005.
- (28) Shop No. 6 and 7, New Chheda Niwas, Phadke Road, Opp. New Modern Cafe, Dombivali (East), Dist. Thane 421 201.
- (29) Shop No. F-65, R Mall, LBS Marg, Ghatkopar (West), Mumbai 400 075.
- (30) Mantri Building, 119/121, J.S.S. Road, Girgum, Mumbai 400 004.
- (31) Shop No. 3 and 4, Rajyog Apartment, 60 Feet Road, Bhayander (West), Dist Thane 401 101.

- (32) Shop No. 3, Sushila C.H.S.,  
B Wing, 45, 46/4, Near Nal  
Stop, Erandwana, Karve  
Road, Pune 411 004.
- (33) Shop No. 15, 16 and 22,  
Building No. 3, Shelar Park,  
Khadakpada, Kalyan (West),  
Dist. Thane 421 301.
- (34) Shop No. 1, Neel Siddhi  
Arcade, Plot No. E/1A,  
Opp. Kendriya Vihar Colony,  
Sector-12, Kharghar,  
Navi Mumbai 410 210.
- (35) Amar House C.H.S.  
Ltd., Plot No. 98,  
Sector-7, Koparkhairane,  
Navi Mumbai 400 709.
- (36) Shop No. 2, Ground Floor,  
Ashoka Vijay Complex, 326,  
M. G. Road, Pune 411 001.
- (37) B-31, Amarpali Building,  
Sector 11, Shanti Nagar,  
Mira Road (East),  
Dist. Thane 401 107.
- (38) Varanda, Block-B, Near  
Shagun Chowk, Pimpri,  
Pune 411 017.
- (39) Shop No. 2, Vaibhav  
Building, Manpada  
Road, Dombivali (East),  
Dist. Thane 421 201.
- (40) Shop No. 7, Evershine  
Marvel C.H.S., Evershine  
City, Opp. Broadway  
Cinema, Vasai (East),  
Dist. Thane 401 208.
- (41) Shop No. 1 and 2, Parshva  
Padmavati, Sai Nagar  
Corner, Ambadi Road,  
Opp. Gurudwara,  
Navghar, Vasai (West),  
Dist. Thane 401 202.
- (42) Shop No. 1, 2, New  
Sonal Society, Agashi  
Road, Virar (West),  
Dist. Thane 401 303.

By order and in the name of the Governor of Maharashtra,

N. D. THORVE,  
Section Officer.

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 शनिवार, मार्च १६, २०१३/फाल्गुन २५, शके १९३४
 

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## उद्योग, ऊर्जा व कामगार विभाग

मंत्रालय, मुंबई ४०० ०३२, दिनांक १६ मार्च २०१३.

## अधिसूचना

महाराष्ट्र माथाडी, हमाल व इतर श्रमजीवी कामगार (नोकरीचे नियमन व कल्याण) अधिनियम, १९६९.

क्रमांक युडब्ल्युए. २०१३/प्र.क्र. ९९/कामगार-५.—महाराष्ट्र माथाडी, हमाल व इतर श्रमजीवी कामगार (नोकरीचे नियमन व कल्याण) अधिनियम, १९६९ (महाराष्ट्र १९६९ चा क्र. ३०) यांच्या कलम ६ च्या पोट-कलम (३), (५) आणि (६) तसेच महाराष्ट्र माथाडी, हमाल व इतर श्रमजीवी कामगार (नोकरीचे नियमन व कल्याण) नियम, १९७० यातील नियम ३ अन्वये प्रदान करण्यात आलेल्या अधिकारांचा वापर करून, अध्यक्षांच्या नियुक्तीसंदर्भात यापूर्वी निर्गमित करण्यात आलेल्या सर्व अधिसूचना अधिक्रमित करून महाराष्ट्र शासन याद्वारे दिनांक २३ ऑगस्ट २०११ रोजीच्या अधिसूचने अन्वये पुनर्रचना करण्यात आलेल्या नागपूर-वर्धा जिल्हा माथाडी व असंरक्षित कामगार मंडळ, नागपूर या मंडळाचे अध्यक्ष म्हणून खालीलप्रमाणे नियुक्ती करित आहे :—

अ.क्र. (१)	माथाडी मंडळाचे नाव (२)	अध्यक्ष (३)	दिनांक (४)
१	नागपूर-वर्धा जिल्हा माथाडी व असंरक्षित कामगार मंडळ, नागपूर	श्री. अ. रा. लाकसवार, अपर कामगार आयुक्त (अतिरिक्त कार्यभार).	१६ जानेवारी २०१३

महाराष्ट्राचे राज्यपाल यांच्या आदेशानुसार व नावाने,

 सु. कि. गावडे,  
 शासनाचे उप सचिव.



In pursuance of Clause (3) of Article 348 of the Constitution of India, the following translation in English of the Government Notification, Industries, Energy and Labour Department, No. UWA-2013/C.R. 99/LAB-5, dated the 16th March 2013, is hereby published under the authority of the Governor.

By order and in the name of the Governor of Maharashtra,

S. K. GAWADE,  
Deputy Secretary to Government.

**INDUSTRIES, ENERGY AND LABOUR DEPARTMENT**

Mantralaya, Mumbai 400 032, dated the 16th March 2013

**NOTIFICATION**

MAHARASHTRA MATHADI, HAMAL AND OTHER MANUAL WORKERS (REGULATION OF EMPLOYMENT AND WELFARE) ACT, 1969.

No. UWA. 2013/C.R. 99/LAB-5.—In exercise of the powers conferred by sub-section (3), (5) and (6) of Section 6 of the Maharashtra Mathadi, Hamal and Other Manual Worker's (Regulation of Employment and Welfare) Act, 1969 (Mah. XXX of 1969) read with rule 3 of Maharashtra Mathadi, Hamal and Other Manual Worker's (Regulation of Employment and Welfare) Rules, 1970 and in supersession of all other Notifications issued in respect of appointment of Chairman the Government of Maharashtra is hereby appoints the chairman of the Nagpur-Vardha District Mathadi and Unprotected Workers Board, which is reconstituted by notification dated 23rd August 2011 as follows :—

Sr. No. (1)	Name of the Mathadi Board (2)	Chairman (3)	Date (4)
1	Nagpur-Vardha District Mathadi and Unprotected Workers Board, Nagpur.	.. Shri A. R. Lakaswar, Additional Commissioner of Labour.	.. 16th January 2013

By order and in the name of the Governor of Maharashtra,

S. K. GAWADE,  
Deputy Secretary to Government.

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 शनिवार, मार्च १६, २०१३/फाल्गुन २५, शके १९३४
 

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### उद्योग, ऊर्जा व कामगार विभाग

मंत्रालय, मुंबई ४०० ०३२, दिनांक १६ मार्च २०१३.

### अधिसूचना

**महाराष्ट्र माथाडी, हमाल व इतर श्रमजीवी कामगार (नोकरीचे नियमन व कल्याण) अधिनियम, १९६९.**

क्रमांक युडब्ल्युए. २०१३/प्र.क्र. ९९/कामगार-५.—महाराष्ट्र माथाडी, हमाल व इतर श्रमजीवी कामगार (नोकरीचे नियमन व कल्याण) अधिनियम, १९६९ (महाराष्ट्र १९६९ चा क्र. ३०) यांच्या कलम ६ च्या पोट-कलम (१) व कलम ६ (क) शासनाने खाली नमूद माथाडी मंडळांतील अधिकाऱ्यांची बदली झाली असल्याने सदर मंडळांची नव्याने रचना करण्याचे ठरविले आहे ;

आणि ज्याअर्थी, उक्त अधिनियमच्या कलम ६ अन्वये मंडळांची नव्याने रचना करण्यास काही कालावधी लागणार असल्यामुळे ;

आणि त्याअर्थी, उपरोक्त अधिनियमाच्या कलम ६ (क) अन्वये प्रदान करण्यात आलेल्या अधिकाराचा वापर करून शासन याद्वारे खालील तक्त्यात दर्शविलेल्या रकाना क्र. २ मधील मंडळ रकाना क्र. ४ मध्ये नमूद केलेल्या दिनांकापासून “एक सदस्यीय मंडळ” म्हणून स्थापित करीत असून खालील तक्त्यात दर्शविलेल्या रकाना क्र. (२) मध्ये दर्शविलेल्या जिल्ह्याच्या मंडळांसाठी त्या मंडळाच्या नावासमोर दर्शविलेल्या रकाना, क्र. (३) मधील अधिकाऱ्यांची संबंधित मंडळाचे अध्यक्ष म्हणून नियुक्ती करीत आहे. तसेच त्यांना मंडळाची सर्व कर्तव्ये नियमाप्रमाणे पार पाडण्यासाठी वा मंडळास प्राप्त असलेल्या अधिकारांचा नियमाप्रमाणे वापर करण्यासाठी प्राधिकृत करण्यात येत आहे :—

अ.क्र. (१)	माथाडी मंडळाचे नाव (२)	अध्यक्ष (३)	दिनांक (४)
१	दि क्लिअरिंग अँड फॉरवर्डिंग गोदी कामगार मंडळ, मुंबई.	श्री. अ. श. धारकर, सहायक कामगार आयुक्त (अतिरिक्त कार्यभार).	४ फेब्रुवारी २०१३
२	धातू आणि कागद बाजार व दुकाने माथडी कामगार मंडळ, मुंबई.	श्री. वि. श. देशपांडे, सहायक कामगार आयुक्त (अतिरिक्त कार्यभार).	४ फेब्रुवारी २०१३

(१)	(२)	(३)	(४)
३	कापूस बाजार कामगार मंडळ, मुंबई	. . श्री. वि. श. देशपांडे, सहायक कामगार आयुक्त (अतिरिक्त कार्यभार).	४ फेब्रुवारी २०१३
४	भाजीपाला बाजार, असंरक्षित कामगार मंडळ, मुंबई.	. . श्री. प्र. अ. पाटील, सहायक कामगार आयुक्त (अतिरिक्त कार्यभार).	२१ डिसेंबर २०१२

महाराष्ट्राचे राज्यपाल यांच्या आदेशानुसार व नावाने,

सु. कि. गावडे,  
शासनाचे उप सचिव.

In pursuance of Clause (3) of Article 348 of the Constitution of India, the following translation in English of the Government Notification, Industries, Energy and Labour Department, No. UWA-2013/C.R. 99/LAB-5, dated the 16th March 2013, is hereby published under the authority of the Governor.

By order and in the name of the Governor of Maharashtra,

S. K. GAWADE,  
Deputy Secretary to Government.

**INDUSTRIES, ENERGY AND LABOUR DEPARTMENT**

Mantralaya, Mumbai 400 032, dated the 16th March 2013

*NOTIFICATION*

MAHARASHTRA MATHADI, HAMAL AND OTHER MANUAL WORKERS (REGULATION OF EMPLOYMENT AND WELFARE) Act, 1969.

No. UWA. 2013/C.R. 99/LAB-5.—In exercise of the powers conferred by Sub-section (1) of Section (6) of Section 6 and Section 6 (A) of the Maharashtra Mathadi, Hamal and Other Manual Worker's (Regulation of Employment and Welfare) Act, 1969 (Maharashtra of 30 to 1969) Government has decided to establish Mathadi Boards due to transfer of Chairman and decided to reconstitute the Board as mentioned below ;

And whereas it will take some time to re-constitute the said Board as per Section 6 of the Said Act ;

Now, therefore in exercise of the powers conferred by section 6 (A) of the said Act the Government of Maharashtra hereby constitutes the said Board as "One Man Board" from the date mentioned in column (4) and District Board mentioned below in Column (2) of the Chart and appoints the officer mentioned in Column (3) as Chairman of the Board and authorizes him to perform all the duties according to the rules and also authorizes him to perform his rightful duties as laid down by the Board :—

Sr. No. (1)	Name of the Mathadi Board (2)	Chairman (3)	Date (4)
1	The Clearing and Forwarding Dock Labour Board, Mumbai.	Shri A. R. Dharkar, Assistant Commissioner of Labour. (Additional Charge)	4th February 2013
2	Metal and Paper Markets and Shops Mathadi Labour Board, Mumbai.	Shri V. S. Deshpande, Assistant Commissioner of Labour. (Additional Charge)	4th February 2013

(1)	(2)	(3)	(4)
3	Cotton Markets Labour Board, Mumbai.	Shri V. S. Deshpande, Assistant Commissioner of Labour. (Additional Charge)	4th February 2013
4	Bhajipala Market Unprotected Labour Board, Mumbai.	Shri P. A. Patil, Assistant Commissioner of Labour. (Additional Charge)	21st December 2012

By order and in the name of the Governor of Maharashtra,

S. K. GAWADE,  
Deputy Secretary to Government.

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 गुरुवार, मार्च २८, २०१३/चैत्र ७, शके १९३५
 

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उद्योग, ऊर्जा व कामगार विभाग  
 मादाम कामा रोड, हुतात्मा राजगुरु चौक,  
 मंत्रालय, मुंबई ४०० ०३२, दिनांक २८ मार्च २०१३.

## अधिसूचना

संदर्भ :- महाप्रबंधक, मा. उच्च न्यायालय, मुंबई यांची अधिसूचना क्र. ए-३९०२/२०१३,  
 दिनांक १२ मार्च २०१३.

**महाराष्ट्र कामगार संघांना मान्यता देण्याबाबत आणि अनुचित कामगार प्रथांना प्रतिबंध करण्याबाबत अधिनियम, १९७१.**

क्रमांक युएलपी-२०१३/सं. क्र. ९५/प्र.क्र. ८४/कामगार-३.—उपरोक्त संदर्भित अधिसूचनेस अनुसरून खाली नमूद केलेल्या न्यायिक अधिकाऱ्यांची न्यायाधीश, कामगार न्यायालय या पदावर महाराष्ट्र कामगार संघांना मान्यता देण्याबाबत आणि अनुचित कामगार प्रथांना प्रतिबंध करण्याबाबत अधिनियम, १९७१ (१९७२ चा एक) यांच्या कलम ६ अन्वये प्रदान करण्यात आलेल्या अधिकारांचा वापर करून, महाराष्ट्र शासन याद्वारे पुढीलप्रमाणे न्यायाधीशांच्या नियुक्त्या करित आहे :-

अ.क्र.	न्यायाधीशांचे नाव व सध्याचे पदनाम	कोणाच्या जागी	न्यायाधीशांचे नाव व नवीन पदनाम	शासन अधिसूचना क्रमांक
(१)	(२)	(३)	(४)	(५)
१	श्री. राजेंद्र व्ही. जांबकर, सह दिवाणी न्यायाधीश, वरिष्ठ स्तर आणि अतिरिक्त मुख्य न्यायदंडाधिकारी, लातूर.	श्री. सत्यनारायण आर. नवंधर.	श्री. राजेंद्र व्ही. जांबकर, न्यायाधीश, १ ले कामगार न्यायालय, मुंबई.	युएलपी-१०७६/१६१२ कामगार-९, दिनांक ०७ जानेवारी १९७७.

महाराष्ट्राचे राज्यपाल यांच्या आदेशानुसार व नावाने,

सु. सा. चौधरी,  
 कार्यासन अधिकारी.

In pursuance of Clause (3) of Article 348 of the Constitution of India, the following translation in English of the Government Notification, Industries, Energy and Labour Department, No. ULP-2013/R.R. 95/C.R. 84 /Lab-3, dated the 28th March 2013, *Extra Ordinary* is hereby published under the authority of the Governor.

By order and in the name of the Governor of Maharashtra,

B. S. KOLASE,  
Joint Secretary to Government.

**INDUSTRIES, ENERGY AND LABOUR DEPARTMENT**

Madam Cama Road, Hutatma Rajguru Chowk,  
Mantralaya, Mumbai 400 032, dated the 28th March 2013.

**NOTIFICATION**

*Ref.*—Notification by High Court of Judicature Appellate Side, Bombay,  
No. A-3902/2013, Dated 12th March 2013.

MAHARASHTRA RECOGNITION OF TRADE UNIONS AND PREVENTION OF UNFAIR LABOUR PRACTICES ACT, 1971.

No. ULP. 2013/R.R. 95/C.R. 84/Lab-3.—With reference to the Notification under reference, the Government of Maharashtra, hereby appoints the following Judicial Officer as Judge of Labour Court in exercise of the powers conferred by Section 6 of the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971 (1 of 1972) :—

Sr. No. (1)	Judge's Name and Present Designation (2)	On Whose Place (3)	Judge's Name and New Designation (4)	Government Notification No. (5)
1	Shri Rajendra V. Jambkar, Joint Civil Judge, Senior Division and Additional Chief Judicial Magistrate, Latur.	Shri. Satyanarayan R. Navandar.	Shri Rajendra V. Jambkar, Judge, 1st Labour Court, Mumbai.	ULP-1076/1612/ Lab-9, dated 7th January 1977.

By order and in the name of the Governor of Maharashtra,

S. S. CHAUDHARI,  
Desk Officer to Government.